

MOTOR VEHICLES - Caterpillar tractor using highways as "motor vehicle" under R. S. Mo. 1929, Chap. 41, and operator thereof as "chauffeur" or "operator" under such chapter.

12-27
December 18, 1934

Mr. B. M. Casteel, Superintendent,
Missouri State Highway Patrol,
Jefferson City, Missouri.



Dear Sir:

Your letter of November 26, 1934, has been received in which you request an opinion on the matters involved in a letter to you from Captain Thomas L. Leigh, "C" Troop, which letter you enclosed. Captain Leigh's letter is as follows:

"1. Request that we be furnished with an opinion of the Attorney-General upon the following state of facts:

2. Certain contractor engaged in building state highway in Jefferson County, is using a number of Caterpillar Tractors pulling dump wagons for the purpose of moving dirt. These vehicles operate over and along portion of the old highway and portion of the new highway on their trips, hauling dirt from the bar pit to the place of making the fill.

3. The question has come up as to whether or not these tractors should have a motor vehicle license and whether or not the operators should have a chauffeur's license. Trucks engaged in this same kind of operation are required to have state license and their operators are required to have chauffeur's license. The truck operators feel that they have been discriminated against, while the tractor operators contend that their vehicles are not motor vehicles within the meaning of the law. We feel that this matter could be clarified by an opinion of the Attorney-General and if one can be secured, we will govern ourselves accordingly."

I

TRACTOR AS MOTOR VEHICLE

A. Chapter 41 of the Revised Statutes of Missouri of

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1929 deals with the registration or licensing of motor vehicles. In Section 7759 of such chapter the term "motor vehicle" is defined as follows:

" 'Motor vehicle.' Any self-propelled vehicle not operated exclusively upon tracks, except farm tractors."

The caterpillar tractor is a self-propelled vehicle and it is not operated on tracks. Nor is it within the exception because only farm tractors are excepted. If the statute had said "except tractors" then all tractors would have been excepted, but by excepting farm tractors all other tractors were left within the definition of the term "motor vehicle". A farm tractor under the same section of the statutes is defined as "a tractor used exclusively for agricultural purposes", so that the caterpillar tractor described in your letter could not be regarded as a farm tractor. Therefore, the conclusion is inescapable that the caterpillar tractor described in your letter is a motor vehicle within the meaning of R. S. Missouri 1929, Chapter 41.

This conclusion is strengthened by comparison between the definition above quoted from Section 7759 and the definition of the term "motor vehicle" contained in R. S. Missouri 1919, Section 7551, wherein such term was defined as meaning "all vehicles propelled by any power other than muscular power, except traction engines, road rollers, fire extinguishing apparatus and engines, police patrol wagons and ambulances, owned or operated by municipal corporations of the state, and such vehicles as run only upon rails or tracks." This comparison immediately shows that the 1929 statute has enlarged the definition of "motor vehicle", and especially noteworthy is the omission of the term "traction engines" which appears in the 1919 statute, which might well have applied to a caterpillar tractor.

B. R. S. Missouri, 1929, Section 7761 provides that "every owner of a motor vehicle or trailer, which shall be operated or driven upon the highways of this state * * " shall register the same and shall pay registration fees according to a scale fixed in such statute. Such Section 7761 is within Chapter 41 and consequently the definition of Section 7759 above quoted applies, so that the caterpillar tractor described in your letter is a motor vehicle under Section 7761, and according to your letter it is being operated upon the highways of this State, and consequently must be registered and registration fees must be paid on account of it.

II

REGISTRATION OR LICENSE FOR CHAUFFEUR OR OPERATOR

R. S. Missouri, 1929, Section 7759, contains the following definitions:

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" 'Chauffeur.' An operator (a) who operates a motor vehicle in the transportation of persons or property, and who receives compensation for such service in wages, salary, commission or fare, or (b) who as owner or employe operates a motor vehicle carrying passengers or property for hire."

" 'Operator.' Any person who operates or drives a motor vehicle."

Section 7765 requires persons desiring to operate motor vehicles as chauffeurs to register, and Section 7766 requires persons desiring to operate motor vehicles as registered operators to register. If the persons operating the caterpillar tractors referred to in your letter are either chauffeurs or operators within the meaning of the definitions just quoted, then they should register under whichever of these two statutes is applicable.

In conclusion it is our opinion that a caterpillar tractor pulling a dump wagon for the purpose of moving dirt and operating on the highways of this State, is a motor vehicle within the meaning of R. S. Missouri, 1929, Chapter 41, and must be registered as a motor vehicle and pay registration fees as such, and that a person driving the same as a chauffeur or operator within the meaning of Section 7759 of such chapter should likewise be registered.

Very truly yours,

EDWARD H. MILLER
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General