

Relating to classification of trucks which come under regulations of P. S. C. and discusses interstate and intra state transportation

February 10, 1934

2-17-34



Mr. W. T. C. Weimer, Manager,  
St. Francois Co. F.B.P. & #. Ass'n.  
Farmington, Missouri

Dear Sir:

This department acknowledges receipt of your letter dated February 1, 1934 in which you state and inquire as follows:

"Pursuant to a conversation held yesterday with the personnel of the Mo. Truck and Terminal Ass'n. in St. Louis, I am writing to set out fully the questions discussed.

Firstly, we operate our trucks on a farm to market basis hauling our own merchandise from central markets. We are organized under the Co-operative laws of the State and duly incorporated. Stock in our concern is held by farmers or land owners in this trade territory.

Question #1: Mr. X who owns some of our stock and has a farm in Louisiana wishes us to haul a load of mules to his La. farm. Would he be entitled to our services in this delivery? What, if any, arrangement would have to be made with the states traversed by our trucks?

Question #2: We have a bunch of cattle owned by the Association which we anticipate selling to Mr. X and delivering them to his La. farm. Are we entitled to interstate haul in this case without special license in any of the foreign states traversed?

Question #3: Mr. B who is a local stock buyer and owns stock in our concern, wishes us to haul

cattle to St. Louis, that he has bought from local farmers. Can we haul for him operating as farm to market haulers?

I would appreciate very much your earliest possible answer on these questions. \* \* \* \*

I.

Motor trucks, which come under the Regulations of the P.S.C. are classified, from the manner in which they are used, into two classes, namely "Motor Carriers" and "Contract Haulers."

Section 5264, Laws of Missouri, 1931, p. 306, reads in part as follows:

"(a) The term 'motor vehicle,' when used in this act, means any automobile, automobile truck, motor bus, truck, bus, or any other self-propelled vehicle not operated or driven upon fixed rails or tracks.

(b) The term 'motor carrier,' when used in this act, means any person, firm, partnership, association, joint-stock company, corporation, lessee, trustee, or receiver appointed by any court whatsoever, operating any motor vehicle with or without trailer or trailers attached, upon any public highway for the transportation of persons or property or both or of providing or furnishing such transportation service, for hire as a common carrier. Provided, however, this act shall not be so construed as to apply to motor vehicles used in the transportation of passengers or property for hire, operating over and along regular routes within any municipal corporation or a municipal corporation and the suburban territory adjacent thereto forming a part of transportation system within such municipal corporation or such municipal corporation and adjacent suburban territory, where the major part of such system is within the limits of such municipal corporation.

(c) The term 'contract hauler,' when used in this act, means any person, firm or corporation engaged, as his or its principal business, in the transportation for compensation or hire of persons and/or property for a particular person, persons, or corporation to or from a particular place or places under special or individual agreement or agreements and not operating as a common carrier and not operating exclusively within the corporate limits of an incorporated city or town, or exclusively within the corporate limits of such city or town and its suburban territory as herein defined.

For the purpose of this opinion, may it be said that Section 5264, supra, defines a motor vehicle as follows:

"Any automobile, automobile truck, motor bus, truck, bus or any self-propelled vehicle not operated or driven upon fixed rails or tracks."

Subdivisions (b) and (c) of said section, as they relate to trucks, classify the same by the manner used, into two classes. For convenience, we will call them "Motor Carriers" or Class (a) and "Contract Haulers" or Class (b), and define them in effect as follows:

"Class (a) or motor carriers are defined as the equivalent of that of a common carrier.

Class (b) or contract haulers, are defined as any person, firm or corporation engaged as his or its principal business in the transportation for compensation or hire of property for a particular person, persons or corporations, to or from a particular place or places, under special or individual agreement or agreements, and not operating within the corporate limits of a city or town and its suburban territory."

It readily appears that said legislative Act contains comprehensive and explicit provisions with reference to "contract haulers," wholly separate and apart from those regulations appertaining to "motor carriers". However, many provisions are common to both. Since neither of the questions presented in your request deal with that class defined as "contract haulers", therefore that phase of

the law relating to them will not be dealt with further in this discussion.

We are of the opinion from the questions presented in your request that all hauls made or contemplated to be made by the truck owned by your association are either exempt or that of a common carrier, and upon that hypothesis we proceed.

II.

All farm-to-market hauls are such transportations as are exempt from the regulations of the P.S.C. and the law.

Section 5265, Laws of Missouri 1931, p. 306 provides as follows:

"The provisions of this act shall not apply to any motor vehicle of a carrying capacity of not to exceed five persons, or one ton of freight, when operated under contract with the federal government for carrying the United States mail and when on the trip provided in said contract; nor any motor vehicle owned, controlled or operated as a school bus; nor taxicab, as herein defined; nor to motor vehicles used exclusively in transporting farm and dairy products from the farm or dairy to warehouse, creamery, or other original storage or market; nor to motor vehicles used exclusively in the distribution of newspapers from the publisher to subscribers or distributors. No provision of this act shall be so construed as to deprive any county or municipality within this state of the right of police control over the use of its public highways, or the state highway commission of the right of police control over the use of state highways. This act shall not apply to trucks used in work for the state or any civil subdivision thereof."

Now bear in mind we are discussing trucks for hire only, and not trucks used to transport stock, goods and/or merchandise belonging to the owner of a truck. Within the meaning of the law a motor vehicle as defined herein, used exclusively in transporting farm and dairy products from the farm or dairy to a warehouse, creamery

or other original storage, or to market, is exempt. For example: if Mr. X, a producer of livestock, such as cattle, hogs, horses, mules, etc., desires any of said livestock transported to market and employs the truck of your association to transport said stock, such a transportation would constitute a farm-to-market haul, and exempt. However, no freight for hire could be transported on the return trip by said truck or the whole operation would lose its exemption and be subject to the jurisdiction, orders and regulations of the Public Service Commission.

We are of the further opinion, derived from the statutory provisions herein cited, that if Mr. X, employs the truck of the Association to transport any stock from one farm to another, not for sale, then such a haul would not be exempt, but that of a common carrier movement and not a farm-to-market haul. Of if Mr. X purchases livestock, such as mentioned herein, from a producer and employs a truck of the Association to transport said stock to market or other point of destination, such transportation would not be exempt either.

### III.

Trucks, which come under the regulations of the P.S.C and the law, are either engaged in interstate transportation or intra state transportation.

Your inquiry also raises the question of interstate and intra-state transportations. Interstate transportation embraces hauls from a point within a given state to a point without that state, so a truck licensed as a common carrier within this state could not on that license lawfully make a haul of goods, stock, etc., in transit to a point without this state, for such would be interstate transportation and under Federal regulation, or jurisdiction of the state or states through which such goods, stock, etc., are transported. For example: if Mr. X in this state, the owner of livestock such as mentioned herein, desires said stock transported to a point--say, in New York State--and employs the truck of your association to haul same from the point of origin in this state to the state line, there to be transferred to another truck to haul to its destination in New York State, then, in our opinion, the Association's truck so used would be engaged in interstate hauling, as the haul made by said truck from the point of origin to the state line constitutes a link in the transportation from a point within this state to a point within New York State, and being an interstate haul and having only an intrastate certificate or permit, the operation would be unlawful. Intrastate transportation is transportation within the state, not forming a link

Mr. W. T. C. Weimer.

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in interstate hauls.

We have endeavored to answer all the questions in your request and trust you will find them helpful.

Respectfully submitted,

W. W. BARNES,  
Assistant Attorney General.

APPROVED:

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ROY McKITTRICK,  
Attorney General.

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