

MOTOR VEHICLES: Right of City to license is not affected by Motor Bus and Truck Law.

May 29, 1934.

L-5



Honorable Geo. E. Woodruff
City Attorney
Trenton, Missouri

Dear Sir:

Your request for an opinion dated April 4th, reads as follows:

"The City of Trenton imposes a license tax of one-third the State fee on all motor vehicles.

"The question has arisen as to whether or not we can collect this fee from local owners of busses operating under certificates of convenience and necessity, in view of Section 5272, R. S. 1929. Would you kindly give me your opinion as to this matter."

Section 5272, R. S. Mo. 1929, as amended in laws 1931, page 311, provides in part as follows:

"(a) In addition to the regular registration license fee imposed on all motor vehicles in this state, and its personal property tax, every motor carrier, except as provided in Section 5265 of this act shall, at the time of the issuance of a certificate of convenience and necessity and/or an interstate permit, and annually thereafter, on or between January 1 and January 15 of each calendar year, pay to the state treasurer of the state of Missouri the annual license fee, as set out in this act, for the maintenance and repair of the public highways; all such fees levied upon the issuance of a license to any motor carrier for any motor vehicle hereunder shall be reckoned from the beginning of the quarter in which such license was issued; * * * * ."

Laws 1933 Extra Session, page 99, the last paragraph of Section 7761 provides:

"License taxes may be levied on motor vehicles by municipalities of this state provided that the fees charged by municipalities for said license shall not exceed the amount authorized therefor by said municipalities during the year 1933."

CONCLUSION.

The right of the City of Trenton to tax a city license is granted by the above statute, so long as said tax is not in excess of one-third of the state license tax authorized by the state law in the current year of 1933.

This city tax is a privilege tax and is charged for the privilege of using the city streets. When you refer to "local owners" in your request and ask if a city tax within the statutory limitation is chargeable against local owners of motor vehicles, our answer is yes. A tax on a local owner is not limited to resident owners only, who live within the city limits, but also is broad enough to include as a "local owner" one who resides without the corporation limits but maintains a permanent citus for business purposes within the city and uses a motor vehicle in connection with said local city business. On the other hand the law would not recognize that one, not a local resident, operating a motor vehicle through and over the city streets of Trenton on a regular schedule or route, be a local owner within the application of a city license tax ordinance.

You state that the City of Trenton imposes a license tax on "all motor vehicles" and we assume that it is on such vehicles owned and operated on the streets of the City of Trenton and particularly by local owners. A motor bus or truck operated in Missouri, under and by virtue of a Certificate of Convenience and Necessity from the Public Service Commission, is a motor vehicle and if such is operated by local owners and on the streets of the City of Trenton, such may legally be within the purview of the City Ordinance. However, your letter deals in generalities and not with specific facts, consequently, our opinion is in the main relegated to broad principles of law, and we leave to you the applying of such principles of law to the facts in the individual case. In other words, if the facts show that owners of motor vehicles, which are operated under Certificates of Necessity and Convenience, have a legal citus for tax purposes in the City of Trenton and use the streets of the City as a terminal, then in our opinion the City of Trenton may exact from them a city license tax for the privilege of so using the streets. However, it suffices to say that if one city license is paid in one place, then, of course, that eliminates at all events the necessity of paying another city license at another place.

Hon. Geo. E. Woodruff

-3-

May 29, 1934.

Section 5272 of the bus and truck law, above set out, imposing a license fee for the privilege of operating a bus or truck in this State on a certificate of convenience and necessity expressly provides this license fee in addition to the regular State license fee and the tax on the bus or truck as personal property. It is the further opinion of this office that this license fee is likewise in addition to any city tax imposed by the City of Trenton within the limitations of Section 7761 supra.

Respectfully submitted

WM. ORR SAWYERS
Assistant Attorney General.

APPROVED:

ROY McKITTRICK
Attorney General.

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