

MOTOR VEHICLES: Persons hauling property or passengers for hire must have a chauffeur's license; An individual under private contract to the government to haul its mail from one point to another must also have a chauffeur's license if said person is not a government employe.

September 20, 1935.

9-21



Miss Gertrude H. Stokely
Automobile Department
Office of Secretary of State
Jefferson City, Missouri

Dear Miss Stokely:

This is to acknowledge your letter dated September 19, 1935, as follows:

"This morning a Mr. J. R. Grisso, who has a contract to haul mail between Columbia and Jefferson City, asked at our office if he should have a Chauffeur's license in order to haul this mail.

It seems as if there were several government employeas faced with this same question and we would like to have an opinion from your department as to whether these persons should purchase a Chauffeur's license or not. They are operating their own cars, are permitted to haul up to five passengers and a certain amount of freight."

Section 7765, R. S. Mo. 1929, in part provides as follows:

"(a) Every person desiring to operate a motor vehicle as a chauffeur shall file in the office of the commissioner a statement containing * *

"(b) Upon the filing of such statement and photographs, if the commissioner is satisfied as to the competency * * *, he shall assign to him a number and upon the payment of a fee of \$3.00 he shall issue and deliver to such applicant a certificate of registration which shall contain * * "

Section 7783, R. S. Mo. 1929, provides in part as follows:

"(a) * * *: Chauffeurs and registered operators shall at all times carry, subject to inspection, the registration certificate furnished by the commissioner."

Section 7786, R. S. Mo. 1929, provides penalties for violation of the motor vehicle laws, and paragraph "(d)" provides as follows:

"Any person who violates any of the other provisions of this article shall, upon conviction thereof, be punished by a fine of not less than five dollars (\$5.00) or more than five hundred dollars (\$500.00) or by imprisonment in the county jail for a term not exceeding two years, or by both such fine and imprisonment."

Section 7759, R. S. Mo. 1929, defines the word "Chauffeur" as follows:

"'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."

Sept. 20, 1935.

From the above it is seen that every person who operates a motor vehicle as a "chauffeur," defined above, must be registered.

You state that certain persons holding contracts to haul mail for the government "are operating their own cars, are permitted to haul up to five passengers and a certain amount of freight", and desire to know if such persons must have a chauffeur's license. We are of the opinion that a chauffeur's license is required for persons hauling passengers or freight for hire or compensation. Please do not confuse a government employe engaged solely in handling the mail for the government with a private individual under contract. A government employe delivering mail in a government owned truck does not have to have a chauffeur's license (Johnson v. State of Maryland, 65 L. Ed. 126 (Supreme Court of the United States)) for the reason that the state cannot impose upon a Federal agency any requirements or restrictions that would tend to interfere with that governmental function. For a discussion of this see our opinion dated September 18, 1934, to Mr. J. Ernest Douglass, Acting Postmaster, Warrensburg, Missouri; copy of which is attached hereto.

The facts in your case, however, show that a private individual not only hauls government mail but also freight and passengers, and applying the definition of "chauffeur" it is seen that said persons are owners operating "a motor vehicle carrying passengers or property for hire." The hauling of the passengers or freight for hire by an owner of a motor vehicle under contract with the government to haul its mail, does not, in our opinion, make such person a government employe as to relief of the necessity to secure a chauffeur's license.

Yours very truly,

James L. HornBostel
Assistant Attorney-General

APPROVED:

JOHN W. HOFFMAN, Jr.,
(Acting) Attorney-General.

JLH:EG