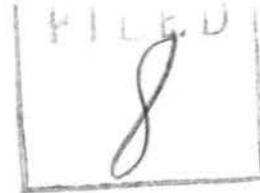


MOTOR VEHICLES: No person under age of 16 years permitted to drive motor vehicle in the State of Missouri, although perhaps in many instances more competent than many adults.

3-24  
March 24, 1936.



Mr. E.S. Bigelow,  
919 Baltimore Avenue,  
Kansas City, Missouri.

Dear Sir:

This department is in receipt of your request for an opinion with respect to the following question:

"I recently applied to the City Counselor for information as to the age at which a driver's license may be issued to minors as I was under the impression that it was governed by city ordinance. I quote from his reply:

'The matter you refer to is covered by State statute and I am informed that the Attorney General has never given an opinion on the particular question.'

"A group of youngsters has gotten the idea that all children who have reached the age of sixteen years and six months are considered sixteen in the eyes of the law and are entitled to so record their age when applying for a license.

"A statement of the law from the Legal Department of the State will be very helpful and much appreciated (by the elders)."

Section 7783, R.S. Mo. 1929, subsection (i) provides:

"Age limit of operators: No person under the age of sixteen (16) years shall operate a motor vehicle on the highways of this state."

This section of our statutes undoubtedly requires that a person shall have reached his or her sixteenth birthday before operating a motor vehicle on the highways of this state.

In the case of *Gibson v. People*, 99 Pac. 333, the Court in construing a statute similar to the one here under consideration held that the words "sixteen years of age or under" excludes children who have passed beyond their sixteenth birthday.

In the case of *Collins v. Liddle*, 247 Pac. 476, the Court gives as the reason for this type of legislation, the following:

"We are irresistibly impelled to the belief that it was because of the known fact that vehicle traffic on the congested highways is continually fraught with more or less danger; that to operate a vehicle safely requires mental discretion and physical ability to handle and control the vehicle, especially in cases of emergency; that, in the experience of mankind, children under the age mentioned have not such mental discretion, or such physical ability and therefore are prohibited as provided in the law."

In connection with the statute above cited, we wish to call your attention to Sec. 7786, R.S. Mo. 1929, subsection (d), which provides:

"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 346 of the Revised Ordinances of Kansas City, Missouri as of 1928 provides:

"No person shall drive any public or private automobile, motor car, motor vehicle or other self-propelled vehicle who is less than sixteen (16) years of age."

This, of course, is but declaratory of the State law on this subject; however, the City of Kansas City has proceeded further in this matter and has sought to protect the children of Kansas City to an even greater extent, as is clearly shown by Sec. 274 of said Revised Ordinances, which provides:

"It shall be unlawful for minors of opposite sex to ride in any automobile between the hours of nine o'clock P.M. and six o'clock A.M. in Kansas City, Missouri, unless such persons are accompanied by a reputable person over twenty-one years of age, or unless two or more of the occupants of such automobile are children of the same parents, or parent, and are of opposite sex; or unless two of such persons are married to each other; or unless such persons are at the time engaged in the performance of an errand of necessity, or are returning directly home from the performance thereof. The adult described in this section shall be some one other than the person in charge of or driving a public automobile for hire.

"In case any officer shall be uncertain as to whether the persons using any automobile are violating the provisions hereof, it shall be the duty of the persons driving such automobile upon the request of such officer to drive the same to the residence of the girl or girls in said automobile for the purpose of investigation."

CONCLUSION

In view of the foregoing, it is the opinion of this department that the limit of sixteen years as provided in Section 7783, supra, is not arbitrary but is a reasonable exercise of the police power, and the Act restricting automobile drivers to persons over sixteen years of age is not violative of either the State or Federal Constitutions, which forbid the taking of private property without due process of law.

It may be true, and even quite possible, that some persons under the age of sixteen years are more apt than others in learning to operate motor vehicles--in fact, it would require a high degree of imagination to conceive of any one over the age of ten years being any less adept in the handling of motor vehicles than many adults who are by law permitted to do so; however, the Legislature has concluded that the "silver livery of advised age" is sufficient license to operate a motor vehicle, and we can but construe the law as it is written. The propriety, wisdom and expediency of legislation enacted in pursuance of the police power is exclusively a matter for the Legislature.

Respectfully submitted,

JOHN W. HOFFMAN, Jr.,  
Assistant Attorney General.

APPROVED:

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ROY MCKITTRICK,  
Attorney General.

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