

MOTOR VEHICLES: State employes and employes of counties and municipalities not required to register as "chauffeurs" defined by Section 7759, R. S. 1929.

January 29, 1936.

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Honorable Louis V. Stigall
Chief Counsel
Missouri State Highway Department
Jefferson City, Missouri

Dear Mr. Stigall:

This is to acknowledge your letters dated January 21st and January 27th, 1936, relative to a communication from Mr. Wyatt Hawkins, Acting Division Engineer, at Hannibal, Missouri. Mr. Hawkins' letter reads as follows:

"It has come to our attention that a constable in Clark County is making the statement that he is going to make arrests of Missouri State Highway Department and County Highway Department employees, driving state and county owned equipment.

"Will you kindly secure an opinion from us, from the Attorney General's Office, as to whether the law requires drivers of state and county owned equipment to take out chauffeurs' license or operators' certificates?"

The Missouri State Highway Commission is a subordinate branch of the Executive Department of the State of Missouri. In *Bush v. State Highway Commission of Missouri*, 46 S. W. (2d) 854, Division No. 2 of the Supreme Court, page 858, said the following:

"It thus having been determined that the commission is a subordinate branch of the executive department, it is not liable in tort for the acts of its agents and employees upon grounds of public policy heretofore stated."

On January 21, 1935, this Department rendered an opinion to Colonel B. M. Casteel, Superintendent of Missouri State Highway Patrol, wherein we held:

"From the above and foregoing it is our opinion that the employes of this state and of the political subdivisions thereof, who operate such motor vehicles, do not come within the classification of "registered operators" as defined by Section 7759, R. S. Mo. 1929, and therefore are not required to be "registered operators.""

Copy of the above opinion herewith enclosed.

It is our further opinion that employes of this State and of the political sub-divisions thereof do not come within the classification of "chauffeurs" as defined by Section 7759, R. S. Mo. 1929, and, therefore, are not required to be registered as chauffeurs for the same reasons stated in the opinion dated June 21, 1935, relating to "registered operators." It follows that the answer to Mr. Hawkins question "as to whether the law requires drivers of state and county equipment to take out chauffeurs' license or operators' certificates" should be in the negative, in our opinion.

Yours very truly,

James L. HornBostel
Assistant Attorney-General

APPROVED:

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