

Motor Vehicles---- : A private person who transports school
Drivers License Law: children to and from school without
compensation does not "operate" school
bus.

June 12, 1937

6-15



Father T. Schoen
New Haven, Missouri

Reverend and dear Father:

This Department is in receipt of your request
for an opinion, which reads as follows:

"May I request an official opinion
from your office relative to the
following matter:

'Is it permissible under the new
drivers license law to use a driver
under 21 years of age--if I use a
privately owned automobile, such as
a limousine, in the transporting of
school children to school; or does the
very fact that I transport school
children make my vehicle of transpor-
tation a school bus--thereby necessi-
tating a driver over 21 years of age.'

This is a serious problem to all
parochial schools who transport children
to school. Our burden is already plenty
burdensome. I do hope for a favorable
reply, for the necessity of a driver
over 21 years of age means quite an
additional expense. May I expect an
early reply, so I can arrange accordingly."

The law which is commonly known as "Drivers License Law", was passed at the last session of the legislature and approved by the governor. Section 5 of the act provides in part, as follows:

"No person who is under the age of twenty-one (21) years shall drive any motor vehicle while in use as a school bus for the transportation of pupils to or from school* * *."

Section 1 (c) reads as follows:

"School bus. Every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school."

In applying the above sections to your set of facts, it will be seen that the question turns upon the interpretation of the word "operated" as used in Section 1 (c). The question is whether "operated" as used in the act means actual physical control of a vehicle, or whether it means the direction or supervision of the vehicle. Funk and Wagnall's Dictionary defines "operate" as:

- "1. To put in action and supervise the working of.
2. To conduct or manage the affairs; superintend."

Webster's Dictionary gives as synonyms of the word "operate"; "to manage, conduct, to carry out, or through."

In an interpretation of a law, the court should endeavor to arrive at the true intent of the lawmakers as determined from the text in which they have expressed it. St. Louis vs. Lane,

19 S.W. 533; 110 Mo. 254. We believe that the reasonable construction of Section 1 (c), wherein a school bus is defined, is that the strict definition of "operate", which means to put in action or to work, should not be taken, but rather the broader meaning of managing or superintending. A reading of the provision in this light seems to carry out the intent of the Legislature. In other words, the statute should read so that "operated" refers to the control or direction of the governmental agency or the private person, rather than the steering or driving by the chauffeur. This view is borne out by the construction of the statute. As was said in Dyer vs. Sutherland, 13 S.W. (2d) 1056:

"In construing the statute, effect must be given, if possible, to every word thereof."

It will be noted that when "operated" appears in the first clause of the paragraph, it is used by itself. However, in the second clause, it is followed by the phrase "for compensation". This phrase must be included in the statute for some reason. In both instances whether the vehicle belongs to a public agency, or to a private person, it is driven by a person for which act he receives compensation. Therefore when the phrase "for compensation" is used in the second clause, it must refer to something other than the compensation of the driver, otherwise, it would have been used in the first clause also. Therefore, when the act says "operated for compensation", if it does not refer to the actual physical control exercised by the driver, then it must mean operating in the sense of management or superintendence or the direction of the conduct. A reading of the section as a whole bears out this interpretation. The "public or governmental agency" provides a bus for the convenience of the pupils and receives no compensation for it, it therefore, only "operates" a bus. However, a private person when paid by a school or by the parents of the pupils to provide means whereby the pupils are transported to and from school, then he "operates for compensation".

June 12, 1937

It will, therefore, be seen that a school bus as defined by Section 1 (c) of the Drivers License Law is a motor vehicle operated by a public or governmental agency or one operated by a private person for compensation. If no compensation, directly, or indirectly, is received by the private person, then the vehicle is not a school bus.

However, if such a vehicle as described in your letter is not a school bus, still if you pay compensation to a person for driving the same, he would be a chauffeur and under Section 7765 R. S. Missouri 1929, he must be eighteen years of age and have a chauffeur's license. However, if said person does not receive compensation, the only requirements would be that he be sixteen years of age and have a driver's license.

CONCLUSION

It is, therefore, the opinion of this Department that where a private person has a driver transport children to and from school in that person's car and for which the person receives no compensation, then the vehicle used is not a school bus and the driver does not come within the provision of Section 5 of the Drivers License Law, which requires him to be twenty-one years of age.

Respectfully submitted,

OLLIVER W. NOLEN,
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

AO:MR