

MOTOR VEHICLES: Exemption of the operation of a school bus from control and regulation by the Public Service Commission.

February 18, 1938

2-19

Mr. Roy L. Kay,  
Prosecuting Attorney,  
California, Missouri.



Dear Sir:

Your letter of February 14th, last, requesting an opinion relative to the operation of a school bus is received, and we are accordingly giving you our opinion thereon. We here set forth your letter for reference purposes:

"Mr. Clarence H. Glover of California, Moniteau county, Missouri, operates a school bus in transporting from their several homes in the County School Children to the California High School. Various school activities and contests between different schools in the state take place, and the California High School enter their School Teams in these contests, and want Mr. Glover to transport their school teams and school groups taking part in the various school contests at different schools from the High School here to other High Schools in the state. Does Mr. Glover have to take out from the Public Service Commission a Certificate of Necessity and Convenience in order to transport these school groups from The California High School to other High Schools where these contests and school activities are held? Please advise."

Section 5265, Laws of Missouri, 1937, page 439, which applies to this case, is in part as follows:

"The provisions of this act shall not apply to \* \* \* any motor vehicle owned, controlled or operated as a school bus."

We believe there should be interpolated in or added to the above language, the words "when used for school purposes."

We believe that the use which your letter says the school bus will be put to, namely, transporting school children from the California High School to other high schools for the purpose of engaging in school contests and school activities, would be manifestly for a school purpose, and we believe such operation comes within the exemption of the statute above, especially where the bus is not to be operated on such trips for the personal profit of Mr. Glover, but the expense of such operation to be paid for out of the school funds of your district.

We find no Missouri cases dealing with the exemption allowed school buses under the above statute. However, a case of interest herein, which we believe sustains the validity of the exemption set forth in the above statute as to its constitutionality and otherwise, is Bacon Service Corporation v. Huss, 248 Pac. 235, wherein the court said, l. c. 238:

"Taking up the exemptions in the order in which they appear in the statute, it is first noted that section 1 exempts operators of motor vehicles used solely for the transportation of persons to and from the public schools. In providing for this exemption, the Legislature doubtless had in mind the motor vehicles operated by or under contract with public school authorities for the conveyance of school children to and from school. The expense of such operation is a charge on the public treasury, and the exaction of the license

tax thereon would naturally increase the general tax burden. The state has a special interest in the development of the public school system and in as full and regular school attendance as possible. To that end such conveyances have been provided at public expense. It is easily conceivable that the Legislature had in mind that by relieving such operators from a state license tax, cheaper transportation for a public purpose would thereby be had. An instance of a similar classification is noted in the exemption from the payment of registration fees under the California Vehicle Act of vehicles owned by the state or by any political subdivision thereof (section 78, Stats. 1923, p. 538). There would therefore seem to be no objection to the classification of motor vehicles so operated at public expense apart from those operated for hire by private individuals, associations, and corporations."

#### CONCLUSION

Under the facts stated in your letter hereinabove set forth, it is our opinion that when the operation of your school bus is confined to school purposes and the cost of such operation paid out of your school funds, then such bus is exempt from the control and regulations of the Public Service Commission, and is not required to procure a certificate of convenience and necessity from such Commission.

Respectfully submitted,

J. W. BUFFINGTON,  
Assistant Attorney General.

APPROVED:

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J. E. TAYLOR,  
(Acting) Attorney General.

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