

PUBLIC SERVICE
COMMISSION:

Can not exact motor carrier's license from
trucker transporting livestock from farm to
market and on the return trip hauling his
(the truckers) own property.

December 8, 1939

Daniel C. Rogers
Public Service Commission
Jefferson City
Missouri

12-17



Gentlemen:

This will acknowledge receipt of your letter of
November 15, 1939, requesting us to supplement our opinion
of August 15, 1939, to Honorable Jack H. Denny, in which
we held a contract hauler could transport livestock for a
person for hire from the farm to the original market and on
the return trip transport for hire stocker and feeder
livestock or transport his (the truckers) own property
of any description, and not be required to have a license
as a contract hauler. You ask us if this ruling also
applies to motor carriers.

Section 5267, Laws 1931, p. 306, provides:

"(a) The public service commission is
hereby vested with power and authority,
and it shall be its duty to license,
supervise and regulate every motor
carrier in this state * * * ."

Section 5264 (b), Laws 1931, p. 304, provides:

"The term 'motor carrier', when used in
this act, means any person, firm, etc.,
operating any motor vehicle with or without
trailer or trailers attached, upon any
public highway for the transportation of
persons or property or both or of providing
or furnishing such transportation service
for hire as a common carrier. * * * * *"

Section 5268(a), Laws 1931, p. 307, provides:

"It is hereby declared unlawful for any motor carrier to operate or furnish service as a common carrier within this state without first having obtained from the commission a certificate declaring that public convenience and necessity will be promoted by such operation."

Section 5268(b), Laws 1931, p. 308, provides:

"It is hereby declared unlawful for any motor carrier except as provided in section 5265 of this act to use any of the highways of this state for the transportation of persons or property, or both, in interstate commerce without first having obtained from the commission a permit to do so."

It is clear that under the terms of these statutes, motor carriers operating in intrastate and interstate commerce must obtain a permit from the Public Service Commission, when engaged in hauling livestock to the market and in hauling any other property to or from any place, unless there is some provision in the law that provides an exception, or unless the act does not cover the activity.

It will be noted the legislature, when dealing with interstate carriers, made specific reference to the exception statute, while it did not do so when dealing with intrastate carriers. However, this makes no difference to the question because of the broad terms employed in the exception statute. The section is number 5265, Laws 1937, p. 439, and provides:

"The provisions of this act shall not apply
* * * to motor vehicles used exclusively
in transporting farm and dairy products from

the farm or dairy to a creamery, warehouse,
or other original storage or market, and
transporting stocker and feeder livestock
from market to farm or from farm to farm
* * * * ."

The term motor vehicle used in this section is broad enough to and does include motor carriers, exempting them from the operation of the act if the vehicle is used exclusively to haul the exempted products.

The question that now confronts us is this: Does the use of the motor vehicle to haul the truckers own property on the return trip after hauling livestock to the market cause the exception not to apply?

In Section 5264 (b), supra, it is to be noted a motor carrier is defined as one who transports for hire as a common carrier. On this return trip, the motor carrier is not transporting for hire. He is transporting his own property and the Public Service Commission has no control over such activity.

The exclusive transportation required by Section 5265, supra, in order for the motor carrier to be entitled to the exception has reference to transporting only the products named therein in the manner specified for hire. In other words, if the motor carrier transports for hire any other property in any other manner, than is specified in Section 5265, he then must obtain a permit.

CONCLUSION

Therefore, it is our opinion that a motor carrier transporting farm products for a person for hire from the farm to the original market, and then purchasing property as his (the truckers) own, and transporting it on his return trip, is not required to be licensed as a motor carrier. Neither is he required to be so licensed if on his return trip he •

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is transporting for hire stocker and feeder livestock from
the market to the farm.

Respectfully submitted,

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APPROVED:

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