

MOTOR VEHICLES: Full reciprocity does not exist between Indiana, Illinois and Missouri.

October 22, 1941

Missouri State Highway Patrol
Jefferson City, Missouri

Attention: Sergeant Major E. P. Clark

Gentlemen:

This will acknowledge receipt of your request for an official opinion under date of September 15, 1941, which reads as follows:

"The Kroger Grocer Company, of St. Louis, operate about 15 or 20 trucks with Missouri license, having inaugurated a new type of service. As an example, they will have a load of merchandise which is going to their Terre Haute branch and the trailer, which is registered in the State of Missouri, has Missouri license and is loaded for this point. Upon arrival there, instead of unloading this trailer, the tractor will be attached itself to a trailer which is loaded with merchandise for the St. Louis branch. This trailer is registered in the State of Indiana and will return to St. Louis. The same trailer equipped with Indiana license will engage in hauling their merchandise within the State of Missouri from St. Louis to various points in entirely intra-state operation. The trailer equipped with Missouri license will engage in the same type of operation within the State of Indiana.



"We would like to have an opinion from your office as to whether or not the above operation is legal or whether the reciprocal agreement with Indiana and Illinois does apply to the above operation, or whether it means Interstate Commerce only. This is a private Missouri corporation handling their own merchandise and are not engaged in any way for hire."

In this State the legislature enacted a reciprocal provision, Section 8375, R. S. Missouri 1939, pertaining to motor vehicles, which reads as follows:

"A nonresident owner, except as otherwise herein, provided, owning any motor vehicle which has been duly registered for the current year in the state, country or other place of which the owner is a resident and which at all times when operated in the state has displayed upon it the number plate or plates issued for such vehicle in the place of residence of such owner may operate or permit the operation of such vehicle within this state without registering such vehicle or paying any fee to this state, provided that the provisions of this section shall be operative as to a vehicle owned by a nonresident of this state only to the extent that under the laws of the state, country or other place of residence of such nonresident owner like exemptions are granted to vehicles registered under the laws of and owned by residents of this state."

Indiana enacted the following motor vehicle reciprocal

provisions. Chapter 29, page 152, Session Acts of 1937, provides:

"Section 1. Be it enacted by the general assembly of the State of Indiana, That section 2 of the above entitled act be amended to read as follows: Sec. 2. The governor of the State of Indiana and such commission so appointed and designated by him are hereby authorized and empowered to engage in any conference with the officials of any or all other states, commonwealths or the District of Columbia, that in their judgment would be in the interest of the State of Indiana and the citizens thereof, and they are hereby empowered to enter into such reciprocal contracts and agreements as they may deem proper, expedient, fair and equitable to the citizens of this state, with the proper authorities of adjoining states or any or all of the states or commonwealths and the District of Columbia, regulating the use of motor vehicles on the highways of this state, belonging to and owned or operated on such highways by citizens of such other states, commonwealths or the District of Columbia, in consideration of the granting by such other state, commonwealth, or District of Columbia to the citizens of this state a like privilege or privileges while operating a motor vehicle in such other state, commonwealth or the District of Columbia. They are likewise empowered and authorized to confer, advise with and enter into such reciprocal contracts and agreements as they may deem proper, expedient, fair and equitable to the citizens

of this state with legislative bodies, commissions, boards or officials duly authorized and empowered by the law of any other state, commonwealth or the District of Columbia, with a view to promoting and establishing such fair, just, equitable and reciprocal agreements for the licensing, movement, taxing, registration, regulation and fees to be charged therefor of motor vehicles owned and licensed in this state and operated on the highways of such other state, commonwealth or the District of Columbia and those owned and licensed in such other state, commonwealth or the District of Columbia and operated on the highways of this state. If such other state, commonwealth or the District of Columbia has no commission or official authorized to enter into such a reciprocal agreement, but does have in force a law or statute which contains a reciprocal provision for the benefit of the citizens of this state, then the governor and said commission, if they are of the opinion that it would be beneficial to the citizens of this state, are authorized to consent to the provisions of such reciprocal law or statute, and to notify the proper authority of such other state, commonwealth or the District of Columbia thereof. In all cases where reciprocal agreements are entered into by said commission, pursuant to the provisions hereof, said agreements shall be given full force and effect and shall be construed as modifying any existing laws insofar as they are inconsistent therewith, and so long as such agreements are in force."

Section 11127, Baldwin's Indiana Statutes, annotated, 1934, provides full reciprocity on motor vehicles and trailers with other states, with this exception:

"The provisions of this act relative to registration and the display of registration numbers shall not be construed to apply to any motor vehicle, motor bicycle, tractor, trailer or semi-trailer owned by a nonresident of this state, other than a foreign corporation doing business in this state, if the owner of such motor vehicle, motor bicycle, tractor, trailer or semi-trailer shall have complied with the provisions of the law of the state of which he is a resident, relative to the registration of motor vehicles, motor bicycles, tractors, trailers and semi-trailers and the display of registration number plates thereon, and shall conspicuously display his registration number plates as required hereby. A nonresident shall not be deemed to have complied with the law of the state of which he is a resident unless regulation metal license plates, issued by the proper authorities of such state, are conspicuously displayed on the motor vehicle, motor bicycle, tractor, trailer or semi-trailer for which said license was issued. * * * * *

The Indiana reciprocal provision authorizes the governor, and the commissioner appointed by the governor, to enter into any agreement with officials having like authority in any other state, and if there be no like officials having the necessary authority to enter into such agreement with officials of Indiana, but the other state does have a reciprocal provision for the benefit of the citizens of Indiana, then the governor of Indiana and the commissioner have authority to notify the proper authorities of such other state that they consent to such reciprocal provision. In such case such agreement or consent shall be construed as modifying any existing law insofar as they

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are inconsistent with said agreement.

Since no authority is granted to any office or department in this state to enter into any such agreement we must be guided solely by the respective reciprocal provisions of Indiana and Missouri.

Section 11127, supra, Indiana Statutes, specifically exempts nonresidents from registration in Indiana with the one exception and that is "other than a foreign corporation doing business in this state." It is the opinion of this Department that this one exception would include such case as the Kroger Grocery and Baking Company owning business in both Missouri and Indiana and carrying their own goods in their own trucks and trailers.

Therefore, we must hold that due to that provision in Section 11127, supra, of the Indiana Statutes requiring foreign corporations doing business in Indiana to register in Indiana, Missouri requiring no such registration of foreign corporations in Missouri, that such corporation as the Kroger Grocery and Baking Company in Indiana must register in Missouri before operating in this state. We have heretofore held that there is not full reciprocity between Illinois and Missouri in just such a case as presented by these facts due to a similar provision in their law.

It is the further opinion of this Department that if the governor and commissioner in Indiana should consent to our reciprocal motor vehicle act and assures the Commissioner of Motor Vehicles in Missouri that the State of Indiana would grant full reciprocity to Missouri corporations doing business in Indiana, which would be contrary to Section 11127, Indiana law, but such authority is granted the governor and said commissioner, then such Indiana trucks and trailers would be permitted under our motor vehicle act to operate within this state as suggested in your request.

Respectfully submitted,

APPROVED:

AUBREY R. HAMMETT, JR.
Assistant Attorney General

VANE C. THURLO
(Acting) Attorney General

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