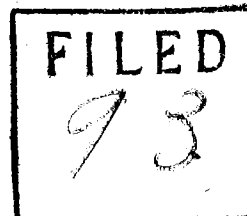


MOTOR VEHICLES: Use of truck ordinarily used in hauling commercially, and having only "local commercial license," for transporting farm products for distance of more than 25 miles, where such use not wholly within one municipality or urban community, violates Sec. 8369, Laws 1943, pp. 664-666, and subjects user to penalty prescribed.

August 29, 1946



Honorable Hugh H. Waggoner  
Superintendent, Missouri State Highway Patrol  
Jefferson City, Missouri

Dear Sir:

This office is in receipt of your request for our official opinion on the following question:

"A Mr. \_\_\_\_\_ owns a lime quarry and a fleet of lime trucks. He has seven trucks with 'local' license and two licensed for 'beyond local.' Mr. \_\_\_\_\_ also owns and operates a large farm in another locality, and in the course of his operations he uses his lime trucks to transport farm products, equipment and implements to and from his farm to Canton and other parts of the state. Would he be violating the law if he used a truck with a 'local' license to transport farm products and equipment beyond the 25 mile limit?"

"Local" and "beyond local" license fees were introduced into the Missouri Statutes in House Bill 240 of the 62nd General Assembly, and may be found in Laws of 1943, beginning at page 663. In quoting pertinent sections from that law, as will be hereafter seen, frequent reference is made to "commercial motor vehicles," and the following is the statutory definition of that term, taken from Section 8367, R. S. No. 1939:

" \* \* \* 'Commercial motor vehicle.' A motor vehicle designed or regularly used for carrying (a) freight and merchandise, or (b) more than eight passengers. \* \* \* "

Since, to properly transport lime, a vehicle must necessarily be included in that definition, we pass to that portion of Section 8369, Laws of Missouri, 1943, pages 364-366, which defines "local commercial motor vehicles":

"The term 'local commercial motor vehicle' includes every 'commercial motor vehicle' as defined in Section 8367, Revised Statutes of Missouri, 1939, while operating within this state and used for the transportation of persons or property:

"1. Wholly within any municipality or urban community, or

"2. Wholly within any municipality or urban community and a zone extending 25 air miles from the boundaries of any municipality or urban community, or contiguous municipality or urban community, or

"3. In making hauls not exceeding 25 miles in length, or

"4. When controlled or operated by any person or persons principally engaged in farming when used exclusively in the transportation of agricultural products or live stock to or from a farm or farms, or in the transportation of supplies to or from a farm or farms."

The same section provides also that the fee for a "local" vehicle shall be only one-third the fee for those commercial vehicles not coming within the provisions just quoted, supra.

To be exempt from the payment of the full fee and obtain the benefits provided for "local" commercial motor vehicles, the truck mentioned in your request must be used in accordance with one of the four numbered subdivisions of Section 8369, quoted above, and the first three are eliminated by your question.

Under your request it is possible that the individual concerned is "principally" engaged in farming, since you state that he owns and operates a large farm, even though he also operates a lime quarry.

To come within the terms of subsection 4, supra, however, the vehicle must be "used exclusively in the transportation of agricultural products," and we can find no precedent for holding that commercial lime such as that produced by a quarry is such a product. Reference to "Words and Phrases - First Series" discloses the following definition (Volume 1, page 287):

"In ordinary usage, the term 'agricultural products' is confined to the yield of the soil, as corn, wheat, rye, hay, etc., in its primary form. \* \* \* Davis vs. City of Macon, 64 Georgia Reports 128."

The word "exclusively" needs no definition here, as its meaning is too well known. A truck used in hauling lime from a quarry could not be used exclusively for the agricultural purposes contemplated in the statute quoted herein.

#### CONCLUSION

It is the conclusion of this office that the use of a truck, ordinarily employed in hauling lime commercially, and having only the "local commercial license" described in Section 8369, Laws of Missouri, 1945, pages 664-666, for transporting farm products, equipment and implements for a distance of more than twenty-five miles, where such use is not wholly within one municipality or urban community, violates the provisions of said Section 8369, and would subject such user to the penalty prescribed.

Respectfully submitted,

ROBERT L. HYLER  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General

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