

ARTICLES: Applicability of Motor Vehicle Safety Responsibility Act to taxicabs.

FILED
85

July 18, 1947

8/1

Mr. Hinkle Statler, Supervisor
Motor Vehicle Registration Unit
Division of Collection
Department of Revenue
Jefferson City, Missouri

Dear Sir:

Reference is made to your inquiry of recent date, requesting an official opinion of this office, and reading as follows:

"Will you please give this Department an opinion on the following questions.

"Under the laws of this State, are taxicabs classed as common carriers? If so, are they liable under the provisions of House Bill No. 317?"

We are further informed that your first question is to be answered in the light of the following exemption clause found as a part of subsection (b) of Section 8470.15, Mo. R. S. A., forming a part of the Motor Vehicle Safety Responsibility Act:

"(b) Notwithstanding anything else herein contained, this Act shall not apply with respect to any motor vehicle owned by the United States, the State of Missouri, or any political subdivision of this State, or any municipality therein, nor shall this Act apply to any common carrier or contract carrier whose operations are subject to the jurisdiction of and are regulated by the Interstate Commerce Commission or the Public Service Commission of Missouri, or by regulatory ordinances of the municipalities served by such common or contract carrier, and which shall have satisfied any applicable requirements concerning bond, insurance or proof of financial responsibility

imposed by the regulatory authority having jurisdiction over the carrier's operations.
(Emphasis ours.)

The Motor Vehicle Safety Responsibility Act does not contain within itself a definition of the phrase "common carrier." We, therefore, must look to the general law of the state to determine the meaning to be accorded thereto. We quote from State ex rel. Anderson v. Witthaus, 102 S. W. (2d) 99, 1. c. 101, wherein the Supreme Court of Missouri promulgated the following definition:

"In State ex rel. v. Public Service Commission, 275 Mo. 483, 205 S. W. 36, 42, 18 A.L.R. 754, the following from 1 Wyman on Public Service Corporations, 227, was quoted with approval: 'The fundamental characteristic of a public calling is indiscriminate dealing with the general public. As Baron Alderson said in the leading case: "Everybody who undertakes to carry for any one who asks him is a common carrier. The criterion is whether he carries for particular persons only, or whether he carries for every one. If a man holds himself out to do it for every one who asks him, he is a common carrier; but if he does not do it for every one, but carries for you and me only, that is a matter of special contract." This regular course of public service without respect of persons makes out a plain case of public profession by reason of the inevitable inference which the general public will put upon it. * * * "

Neither does the Motor Vehicle Safety Responsibility Act define the term "taxicab." However, in the Public Service Commission Act, particularly Section 5720, subsection (d), Mo. R.S.A., we find the following:

"(d) The term 'taxicab,' when used in this article, shall mean every motor vehicle designated and/or constructed to accommodate and transport passengers, not more than five in number, exclusive of the driver, and fitted with taximeters and/or using or having some other device, method or system, to indicate and determine the passenger fare charged for distance traveled, and the principal opera-

tions of which taxicabs are confined to the area within the corporate limits of cities of the state and suburban territory as herein defined."

Under Section 5721, Mo. R.S.A., taxicabs, as above defined, are exempted from the provisions of the Public Service Commission Act and are relieved from the control and supervision of that body. This section reads, in part, as follows:

"The provisions of this article shall not apply to any motor vehicle of a carrying capacity of not to exceed five persons, or one ton of freight, when operated under contract with the federal government for carrying the United States mail and when on the trip provided in said contract; * * * nor taxicab, as herein defined; * * *" (Emphasis ours.)

This exemption was upheld by the Kansas City Court of Appeals in the recent case of State ex rel. Crown Coach Co. v. Public Service Commission, 185 S. W. (2d) 347. We quote therefrom, l. c. 357:

"It is evident that under Section 5720(c), R.S. Mo. 1939, motor vehicles of the type therein described and used for hire as common carriers are either 'taxicabs' or they are not 'taxicabs', depending on the location of their principal operations. Under the evidence in this case the motor vehicles in question were common carriers for hire. See State ex rel. Anderson v. Witthaus, 340 Mo. 1004, 102 S. W. 2d 99. To determine the jurisdiction, if any, of the Public Service Commission over such vehicles of the type described, when used for hire as common carriers, as in the instant case, the statutory test is whether the 'principal operations' of the same are 'confined to the area within the corporate limits of cities of the state and suburban territory as herein defined.' If the facts show all the elements of such exemption to exist, then no part of Article 8, Chapter 35, R.S. Mo. 1939, applies to such carriers and the Public Service Commission has no power or jurisdiction over them. If the facts show any element of exemption lack-

ing, then such vehicles are within the purview of Section 5720(b) and 5725, which statutes and all other applicable provisions of said article affect such vehicles, and the jurisdiction of the Public Service Commission would obtain."

From the foregoing, it appears that the question of whether or not a particular operation is or is not common carriage is one of fact to be determined in accordance with the statutory regulations. If a particular vehicle is found to be a taxicab, as defined in the Public Service Commission Act, it is not subject to regulation by that body. If not so found, it is subject to their regulation, as was pointed out in the case last cited, supra.

Referring again to Section 8470.15, Mo. R.S.A., containing the exemption relative to the Motor Vehicle Safety Responsibility Act, it will be noted that all operations which are subject to regulation and supervision by the Public Service Commission have been exempted from the provisions of the act. This by reason of the fact that all such regulated operations include as a part thereof requirements for posting evidence of financial responsibility equivalent to or greater than those imposed under the Motor Vehicle Safety Responsibility Act. To require further evidence of financial responsibility under the latter act would amount to an unjust hardship upon those carriers previously having filed proof of financial responsibility with the Public Service Commission, in that a duplication would result.

However, you will also note that a further exemption obtains on behalf of those common carriers who are subject to the jurisdiction of and are regulated by ordinances of municipalities served by such carriers, and which have in fact satisfied applicable requirements concerning bonds, insurance or proof of financial responsibility. Under the provisions of Section 5721, Mo. R.S.A., the right of municipalities to regulate its public highways has been specifically recognized. We quote, in part, from that section:

" * * * No provision of this article shall be so construed as to deprive any county or municipality within this state of the right of police control over the use of its public highways, * * * "

Also, in construing the exemption afforded taxicabs under the Public Service Commission Act, the Kansas City Court of

Appeals said in State ex rel. v. Public Service Commission, 185 S. W. (2d) 347, l. c. 357:

"The exemption of 'taxicabs' from the regulation and jurisdiction of the Public Service Commission under Section 5721 has other purposes than those personal to the operators of that type of service. No doubt one main purpose was to allow for the local regulation of such carriers by the municipality involved. * * *"

It is a matter of common knowledge that many municipalities have ordinances, regulatory of the operations of taxicabs and other common carriers, which incorporate requirements respecting bonds, insurance or proof of financial responsibility. Again, this remains a question of fact to be determined in each particular instance.

The general purpose of the Motor Vehicle Safety Responsibility Act, in one phase, seems to be that persons operating motor vehicles shall be required, under certain circumstances, to furnish evidence of financial responsibility in one of the several ways provided therein, and that there has been exempted from the act those motor vehicles which are operated under the jurisdiction of regulatory bodies who have the authority to, and in fact have imposed as a condition precedent to such operations a requirement that such operators furnish equivalent or greater proof of financial responsibility than is required by the Motor Vehicle Safety Responsibility Act itself. Of course, such exemption is extended only to those who have actually complied with such regulatory requirements.

CONCLUSION

In the premises, we are of the opinion that motor vehicles the construction and operation of which are not such as to constitute them "taxicabs" within the meaning of the Public Service Commission Act, but which in fact are commonly known as taxicabs and the operations of which are such as to place them within the jurisdiction of the Public Service Commission, are exempt from the provisions of the Motor Vehicle Safety Responsibility Act.

We are further of the opinion that motor vehicles operated as taxicabs within the meaning of that term as defined in the Public Service Commission Act, but which are exempted therefrom,

Mr. Hinkle Statler

-6-

but the operations of which are subject to regulation by municipal authorities, are also exempted from the provisions of the Motor Vehicle Safety Responsibility Act if such municipal regulations include proof of financial responsibility and such requirement is in fact complied with.

Respectfully submitted,

WILL F. BERRY, Jr.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

WFB:HR