

MOTOR VEHICLES: Registration of a truck when application is made January 1, 1952 should be for one year and an annual registration fee as provided in Section 301.060, RSMo 1949, should be collected.

December 12, 1951

Honorable G. H. Bates  
Director  
Department of Revenue  
State of Missouri  
Capitol Building  
Jefferson City, Missouri



Dear Sir:

Your letter at hand requesting an opinion of this department reads as follows:

"Will you please furnish me an official opinion on the following statements of facts:

"H. B. 283 which relates to the Motor Vehicle License Tax Fees applicable to the State of Missouri, and which are to be collected under this Department, will apparently become effective soon after January 1, 1952.

"Under the present law truck license plates are due and payable January 1 and are sold for twelve months period.

"The question which I wish to propound to you for an official opinion is if the applicant applies for a truck license on January 1, 1952, should our Department sell him a license for the entire year of 1952, as set out in Section 301.060, or should it be limited to the period which will elapse before the new law becomes effective?"

The present statutes now in effect pertaining to the registration of motor vehicles are contained in Chapter

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301, RSMo 1949. Section 301.030 of that chapter provides for a system of registration and in part reads:

"Commencing July 1, 1949, motor vehicles shall be registered for a period of twelve consecutive calendar months. There are established twelve registration periods, each of which shall start on the first day of each calendar month of the year and shall end on the last day of the twelfth month from the date of beginning. The period ending January thirty-first shall be designated the first period; \* \* \* \* \*  
All motor vehicles registered by the public service commission shall be allocated to the first registration period. \* \* \* "

From your request we assume you are referring to the registration of motor vehicles used by motor carriers which are licensed and registered by the Public Service Commission during the month of January of each calendar year, as provided in Section 390.110, RSMo 1949. In other words, the statute now requires the registration of such motor vehicles by your department to be accomplished in the first registration period, which would be the month of January.

Section 301.060, RSMo 1949, provides for the payment of a registration fee for all motor vehicles registered by the Department of Revenue, and in part reads:

"The annual registration fee shall be as follows:

"1. For motor vehicles other than commercial motorvehicles and motorcycles and motortricycles. (Fees set out)

"2. For commercial motor vehicles having a gross weight of: (Fees set out)"

(Emphasis ours.)

It is our understanding that Conference Committee Substitute for Amended Senate Committee Substitute for House Bill No. 283 (hereinafter referred to as House Bill No. 283)

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has not been passed by both houses of the Sixty-sixth General Assembly and would, therefore, be classified as pending legislation. However, this Bill in its present form would repeal Section 301.060, RSMo 1949, and enact a new section of the same number wherein a different fee schedule is set up.

Such being the case, we understand your inquiry to be whether you should register a truck when application is made January 1, 1952, for the entire year of 1952, or should said registration be limited to the period which will elapse before House Bill No. 283 becomes effective, and, further, what registration fee should be charged and collected from the applicant.

Regarding the time when laws passed by the General Assembly shall take effect, Section 29, Article III of the Constitution of Missouri, provides as follows:

"No law passed by the general assembly shall take effect until ninety days after the adjournment of the session at which it was enacted, except an appropriation act or in case of an emergency which must be expressed in the preamble or in the body of the act, the general assembly shall otherwise direct by a two-thirds vote of the members elected to each house, taken by yeas and nays; provided, if the general assembly recesses for thirty days or more it may prescribe by joint resolution that laws previously passed and not effective shall take effect ninety days from the beginning of such recess."

House Bill No. 283 in its present form does not have an emergency clause. Furthermore, since it has yet to be passed in the Senate we have no assurance that the Bill will finally be enacted in its present form or, for that matter, enacted at all. In other words, it may or may not be enacted, and it may or may not be enacted in its present form.

Such being the state of affairs relative to this Bill we cannot now determine at what future date it may become effective, nor do we believe that on January 1, 1952 you will be able to determine the future effective date of the Bill. Consequently, as a purely practical matter, we do not see

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how you could register a truck on January 1, 1952 for the period of time existing before House Bill No. 283 becomes effective if you do not know the effective date of said Bill.

Be that as it may, on January 1, 1952 you should be guided solely by the law then in existence and in operation when you undertake the registration of motor vehicles. If House Bill No. 283 is not then in effect, you cannot give it any application.

In this connection the following appears in 59 C. J., Section 673, page 1137-1138:

"The general rule is that a statute speaks from the time it goes into effect and not otherwise, whether that time be the day of its enactment or some future day to which the power enacting the statute has postponed the time of its taking effect. The fixing of a date either by the statute itself or by constitutional provision, when a statute shall be effective, is equivalent to a legislative declaration that the statute shall have no effect until the date designated; and since a statute not yet in effect cannot be considered by the court, the period of time intervening between its passage and its taking effect is not to be counted; but such a statute must be construed as if passed on the day when it took effect. While a statute may have a potential existence, although it will not go into operation until a future time, until the time arrives when it is to take effect and be in force, a statute which has been passed by both houses of the legislature and approved by the executive has no force whatever for any purpose. Before that time no rights may be acquired under it and no one is bound to regulate his conduct according to its terms, and all acts purporting to have been done under it prior to that time are void."

In State ex rel. Thorp v. Devin, 173 Pac. 2d 994, the

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Supreme Court of Washington at l.c. 998 declared:

"As to the operative effect of a legislative enactment, the rule in this state, and elsewhere generally, is that a statute or an ordinance speaks only from the time it goes into effect."

In Board of Regents for Western Kentucky Normal School et al. v. Engle, 5 S.W. 2d 1062, 224 Ky. 184, the Kentucky Court of Appeals in determining the validity of a sale of state property by the Board of Regents refused to consider a statute, authorizing the Board to sell state property, which had been passed but had not become effective. At S.W. l.c. 1063 the court said:

"By supplemental briefs, our attention is called to the fact that the General Assembly in 1928 passed an act validating the action of the Board of Regents in selling property belonging to the state, but that act contained no emergency clause. It has not taken effect, and this court cannot consider it in any way, for it is not yet in effect."

In Butters v. City of Des Moines et al., 209 N.W. 401, 202 Ia. 30, suit was brought to enjoin the city from proceeding with the performance of a contract for the construction of a storm sewer. It had proceeded under a statute which had been amended. However, the amending statute had not become effective at the time action was taken by the city. The amending statute contained additional requirements which the city had not complied with inasmuch as the additional requirements were not in the prior statute. Plaintiff contended that the city had therefore acted without jurisdiction. In ruling on the matter the court at N.W. l.c. 402 said:

"It is conceded that the law in question, having been passed on the 27th day of April, 1924, became effective and operative on the 18th day of October, 1924. The city counsel, having taken the necessary preliminary steps leading to the passage of the resolution of necessity, met on the 9th of October, 1924, to consider it. The question is: To what

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law should it look for jurisdiction to act, on that particular date? There can be but one answer to this question, and that is, the law as it existed on that date, to wit, the law as it stood prior to these amendments which were added thereto by the special session of the Fortieth General Assembly. It cannot be urged that they were bound to take notice of and act under the amendatory law which was not effective and operative at the time the city council acted. Until the time arrives when a law is to take effect and be in force, a statute which is passed by both houses of the Legislature, and approved by the executive, has no force whatever for any purpose. Before that time no rights may be acquired under it, and no one is bound to regulate his conduct according to its terms. The fixing of a date, either by the statute itself or by constitutional provision, when a statute shall be effective, is equivalent to a legislative declaration that the statute shall have no effect until the date designated. Such seems to be the general consensus of opinion."

(Emphasis ours)

In *Keane v. Cushing*, 15 Mo. App. 96, the St. Louis Court of Appeals, in declaring the rule relative to the consideration to be given a statute not yet in effect, said the following at l.c. 99:

"It is a general rule that, where a constitutional provision prescribes the date at which an act of the legislature shall take effect, until the arrival of that date, it has no force or validity for any purpose whatever; not even for the purpose of imparting notice of its existence. It is said by an authoritative writer on statutory construction: 'A statute which is to become a law at a future date,

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is a nullity in the meantime. It does not even operate as notice to persons to be affected by it; nor does a repealing clause in it put an end to the law to be repealed."

In view of the foregoing authorities, it is apparent that you can give no consideration to House Bill No. 283, which at most is only pending legislation, at the time you register a truck on January 1, 1952, and the statutory provisions solely applicable to such registration would be those contained in Chapter 301, RSMo 1949.

Again examining the applicable statutes, Section 301.030, supra, which established the system of motor vehicle registration, and which is still in effect, provides that "motor vehicles shall be registered for a period of twelve consecutive calendar months." Section 301.060, supra, providing for the registration fee to be paid on motor vehicles, refers to the "annual registration fees." We believe it is, therefore, apparent the legislature at the time of the enactment of these statutes intended that the registration of motor vehicles, including the type mentioned in your request, would be for a period of twelve months, or, in other words, on a yearly basis, and that the registration fee would cover the period of registration and be paid annually.

Consequently it is our thought in regard to the particular type of registration to which you are referring that upon application being made January 1, 1952, registration of the motor vehicle or truck should be for a period of twelve months and the annual registration fee to be charged and collected should be that provided for in Section 301.060, RSMo 1949.

If you would undertake to register said motor vehicle for a shorter period of time you would not be complying with the statute providing for registration for a twelve months' period.

#### CONCLUSION

In the premises it is the opinion of this department that registration of a truck, when application is made January 1, 1952, should be for a period of twelve consecutive calendar months or for one year, and at the time of such

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registration an annual registration fee should be charged  
and collected as provided in Section 301.060, RSMo 1949.

Respectfully submitted,

RICHARD F. THOMPSON  
Assistant Attorney General

APPROVED:

*J. E. T.*  
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J. E. TAYLOR  
Attorney General of Missouri

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