

MOTOR CARRIERS: A motor carrier, using the public highways for the purpose of transporting automobiles in interstate commerce under permit from the Public Service Commission, is not permitted to haul farm products over the public roads of the state without obtaining a permit for that purpose also.

May 18, 1951

Mr. Milton B. Kirby
Prosecuting Attorney
Greene County
Springfield, Missouri



Dear Mr. Kirby:

We have given careful consideration to your recent request for an official opinion, which request is as follows:

"The following question is submitted for your consideration:

"The Kenosha Auto Transport Corporation of Chicago, Illinois, which is domiciled in Wisconsin, operates numerous vehicles through Greene County, enroute from Chicago to the west coast. This trucking company has authority from the Missouri Public Service Commission to haul automobiles on Missouri highways. Recently they have made their return trip loaded with raisins, at which time a summons was issued by the Missouri State Highway Patrol for Improper P.S.C. authority.

"A contention is made by Kenosha that such operation in Interstate Commerce is free of operational certificates because raisins are regarded as an unprocessed commodity.

"Would you please advise us of your opinion as to whether or not there are any exemptions from the Public Service Commission Regulations for a truck hauling unprocessed commodities in interstate commerce."

The law governing this question is contained in Sections 390.010 to 390.170, RSMo 1949. The first part of subsection

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2 of Section 390.060 is as follows: "It is hereby declared unlawful for any motor carrier except as provided in section 390.030 to use any of the public 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 so to do." The commission referred to here is the Missouri Public Service Commission.

The Springfield Court of Appeals invoked this statute in the case of Rainer v. Western Union Telegraph Company, 91 S.W. 2d 202. In the course of that opinion, on page 204, the court said:

"Respondent had no lawful right to contract with the Kent Dairy Products Company to haul, nor to haul the cream in question in interstate commerce, and the Kent Dairy Products Company aided and abetted the unlawful contract of respondent by employing respondent to haul the cream, knowing that respondent had no lawful right to transport the cream over the route in evidence, by reason of the fact that no interstate permit to haul cream in interstate commerce had been granted to Fred Rainer, respondent. Therefore respondent and the Kent Dairy Products Company each violated the provisions of section 5275 of article 8, chapter 33, R.S.Mo. 1929, as amended by the Session Acts of 1931, pp. 314, 315, and each was guilty of a misdemeanor under the section last above mentioned."

The Kenosha Auto Transport Corporation has obtained a permit from the Commission to use the public highways of Missouri for the purpose of hauling motor vehicles. Its authority is limited to this purpose. The order of the Commission in granting this permit is as follows:

"* * * that Interstate Permit No. T-4848 be and the same is hereby issued to Kenosha Auto Transport Corporation to operate as a common carrier over an irregular route in the transportation of motor vehicles for hire by the driveaway, caravan, or other similar method of transportation as follows: From points beyond Missouri to all points within the State and from all points within Missouri to points beyond the State, exclusively in interstate commerce."

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The Kenosha Auto Transport Corporation is not permitted to haul any goods other than motor vehicles unless an exemption can be found in Section 390.030. This section provides that the statute shall not apply to any of various cases, including "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." The hauling of unprocessed raisins from farm to market in a truck used for no other purpose would be exempt under this provision of the law. But the Kenosha company is not using its trucks exclusively for any such purpose and, therefore, must confine its operations on the public highways of Missouri to the transportation of automobiles.

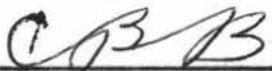
CONCLUSION

It is the opinion of this office that a motor carrier, using the public highways of the state for the purpose of transporting motor vehicles in interstate commerce under permit from the Missouri Public Service Commission, is not permitted to haul unprocessed raisins over the public highways of Missouri without obtaining a permit for that purpose also.

Sincerely yours,

B. A. TAYLOR
Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney General

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