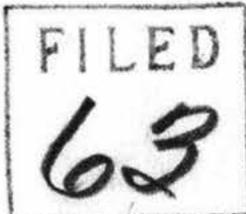


OPERATORS: Persons having operator's license must take examination as required by statutes in order to obtain chauffeur's license.



September 30, 1952 10-17/52

Honorable J. Hal Moore  
Prosecuting Attorney  
Lawrence County  
Mt. Vernon, Missouri

Dear Sir:

This is in reply to your letter of August 30, 1952, in which you request an official opinion of this office.

Your request is as follows:

"I would appreciate your department's opinion of the following circumstances. Does an applicant that has drivers licenses in full force have to take an examination in order to acquire chauffeur's licenses under the laws of Missouri."

In answer to your request, we must refer first to the statutes. Section 302.173, RSMo, Cumulative Supplement 1951, is quoted in part, as follows:

"Driver's examination required, when-- procedure.-- 1. Any applicant for an operator's license, or chauffeur's license issued pursuant to the laws of this state shall be examined as herein provided. \* \* \* No applicant for a renewal license shall be required to submit to any examination of his ability to safely operate a motor vehicle over the highways of this state unless the facts set out in such renewal application or record of convictions on the expiring license, or the records of the director show that there is good cause to authorize the director to require the applicant to submit to such examination. \* \* \*"

Honorable J. Hal Moore

It will be noted that this section treats operators and chauffeurs as being subject to the same requirements of the law. However, in accordance with the text where it reads "operator's or chauffeur's license," the word "or" may be said to be used in the disjunctive sense.

The definition of chauffeur is contained in Section 302.010, subsection (1), RSMo, Cumulative Supplement, 1951, and reads as follows:

"(1) 'Chauffeur', an operator who operates a motor vehicle in the transportation of persons or property, and who receives compensation for such service in wages, salary, commission or fare; or who as owner or employee operates a motor vehicle carrying passengers or property for hire; or who regularly operates a commercial motor vehicle of another person in the course of, or as an incident to his employment, but whose principal occupation is not the operating of such motor vehicle."

It will be noted also that there is nothing contained in the statutes that requires a chauffeur to obtain an operator's license before he drives an automobile as an "operator." His qualifications as a chauffeur are sufficient to enable him to operate his own automobile for other purposes than as a chauffeur. With an operator this is not so. He is not licensed nor does he have a certificate of his qualifications to receive compensation in wages, salary, commission or fare in the transportation of persons or property. A chauffeur is required to be licensed as a licensed occupation for the protection of the public and although provisions for his licensing are contained in the same chapter of the law as that of an operator, it is our belief that the same qualifications as an operator will not qualify one as a chauffeur.

#### CONCLUSION

It is therefore the opinion of this office that an applicant who has an operator's license is required to be

Honorable J. Hal Moore

examined as provided in Chapter 302, RSMo 1949, and Laws 1951,  
H.B. 22, 49, 56, and 114, in order to obtain a chauffeur's  
license.

Respectfully submitted,

JAMES W. FARIS  
Assistant Attorney General

APPROVED:

  
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J. E. TAYLOR  
Attorney General

JWfab