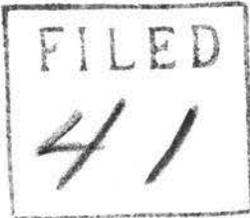


RECIPROCIITY: Complete reciprocity as regards registration of
MOTOR VEHICLES: motor vehicles does not exist between the states of
LICENSES: Missouri and Indiana; then a motor vehicle owned and
registered in Indiana and leased to a Missouri
resident for a period of more than thirty days must
be registered in Missouri.



June 23, 1953

Major E. I. Hockaday
Assistant Superintendent
Missouri State Highway Patrol
Jefferson City, Missouri

Dear Sir:

This department is in receipt of your request for an official opinion. You thus state your request:

"Attached is a letterhead on the Contract Steel Carriers, Incorporated, which is a Missouri corporation. This company operates from Chicago to Kansas City, Missouri. They lease tractors on a yearly basis and these vehicles are licensed in the State of Indiana.

"We request an opinion from your department as to whether or not their operation in the State of Missouri is legal, or must they purchase Missouri license plates for these vehicles."

The above letter raises the issue of whether there is reciprocity between the states of Missouri and Indiana as to the registration of motor vehicles. The reciprocity law of Missouri is found in Section 301.270, RSMo 1949, and reads as follows:

"A nonresident owner, except as otherwise herein provided, owning any motor vehicle which has been duly registered for the current year in the state, country or other place of which the owner is a resident and which at all times when operated in the state has displayed upon it the number plate or plates issued for such vehicle in the place of residence of such owner may operate or permit the operation of such vehicle within this state without registering such vehicle or paying any fee to this state,

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provided that the provisions of this section shall be operative as to a vehicle owned by a nonresident of this state only to the extent that under the laws of the state, country or other place of residence of such nonresident owner like exemptions are granted to vehicles registered under the laws of and owned by residents of this state."

From the above it will be seen that a motor vehicle which is owned by a resident of Indiana, and which has been duly registered for the current year in and by the State of Indiana, may be operated by such owner or operated by his permission, in the State of Missouri, without registering such motor vehicle in Missouri or paying any registration fee in Missouri, provided that a motor vehicle duly registered for the current year in Missouri would have the same privilege in Indiana.

- At this time, we would direct attention to the definition of "owner" of a motor vehicle in Missouri and in Indiana. The Missouri definition is found in paragraph (19) of Section 301.010, Missouri Revised Statutes Cumulative Supplement 1951, and reads as follows:

"'Owner,' the term owner shall include any person, firm, corporation or association, who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this law."

The Indiana definition is found in paragraph (o) of Section 47-2402, Burns Indiana Statutes Annotated, 1952, and reads as follows:

"Owner.--A person who holds the legal title of a motor vehicle or any person renting or leasing a vehicle and having exclusive use thereof for a period longer than thirty 30 days, or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof, with the right of purchase upon the performance of the conditions stated in the agreement and with

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an immediate right of possession vested in the conditional vendee or lessee, or in the event the mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed to be the owner for the purpose of this act."

It will be noted that by the Indiana definition "any person renting or leasing a vehicle and having exclusive use thereof for a period longer than thirty (30) days" is held to be the owner of such vehicle. It will also be noted that the Missouri definition contains no such provision. As a result of this difference, the following would be true: A Missouri registered motor vehicle leased on an annual basis in Indiana would have to be registered in Indiana, whereas, in view of the Missouri reciprocity statute and the Missouri definition of owner, such a requirement is not now made in Missouri of an Indiana registered motor vehicle leased for a period of more than thirty days in Missouri. The situation thus created represents a disparity which is incompatible with reciprocity, and in view of this fact, we would feel that a motor vehicle registered in Indiana and leased to a Missouri owner for a period of over thirty days should be registered in Missouri, unless there is present some additional element which would alter this situation.

In this regard, we would direct attention to the fact that the State of Indiana has a reciprocity commission (Section 47-202, Burns Indiana Statutes Annotated 1952) which is authorized to enter into reciprocity compacts with other states. That statute reads in part:

"* * * If such other state, commonwealth or the District of Columbia has no commission or official authorized to enter into such reciprocal agreement, but does have in force a law or statute which contains a reciprocal provision for the benefit of the citizens of this state, then the commission hereby created, if it be of the opinion that it would be beneficial to this state or the citizens thereof is authorized to consent to the provisions of such reciprocal law or statute, and to notify the proper authority of such other state, commonwealth, or District of Columbia thereof."

On December 31, 1943, the Reciprocity Commission of Indiana entered into a reciprocity agreement with the State of Missouri, said agreement to become effective January 1, 1944, to "remain in full force and effect until cancelled by either parties upon

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thirty days written notice to the other." No such notice of cancellation has been given by either party. Signing this compact for Indiana were the members of the Reciprocity Commission of Indiana, and signing for Missouri was the Chairman of the Missouri Public Service Commission and the Commissioner of Motor Vehicles of Missouri. The pertinent parts of this agreement are:

"I. The undersigned do solemnly covenant and agree that the motor vehicles, trailers and semi-trailers, while engaged solely in interstate commerce for hire or in carrying the property of the owner of such vehicle, and owned or operated by a resident of either state shall be exempt in the state of non-domicile from the payment of any and all fees and taxes levied by such state against said owners or operators by reason of the operation of such motor vehicles, trailers and semi-trailers upon the highways of the States involved herein; subject, however, to the limitations and exceptions in the following subparagraphs:

"A. The fees and taxes from which said owners or operators shall be exempt in the state of non-domicile shall include any and all taxes or fees of whatever name or description which may be levied or imposed by reason of the operation of motor vehicles, trailers or semi-trailers on the highways of the reciprocating state or any political subdivision thereof, including the application filing fee for common, contract or private operating authority payable to said state.

"B. Provided, however, that whenever an owner or operator shall maintain a vehicle at any terminal upon an interstate route, which vehicle for other legal purposes might ordinarily be regarded as engaged in "interstate commerce" by reason of the character of its operations, but which is engaged in such operations exclusively within the state of non-domicile, such vehicle shall not be exempt under this agreement, but shall be registered in, and subject to taxation by the state of non-domicile.

"C. For the purposes of this agreement any individual, corporation or other legal entity who had his or its principal place of business in either of said states on or before July 22, 1943, and who has complied with the laws of such

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state with respect to registration and payment of all fees and taxes for his or its motor vehicle, trailer or semi-trailer, at said time, shall, in addition to such persons as fall within the common and legal definition of the word 'resident', be deemed a resident of the state in which such principal place of business was so situated on said date, and such state shall likewise be regarded as his or its 'domicile'.

"D. Reciprocity shall not knowingly be extended by either state to any owner or operator whose authority to operate is not in full force and effect in the state of said owners' or operators' residence.

"II. This agreement shall not affect or impair the power, authority and discretion of the regulatory bodies or other competent authorities of either the state of Missouri or Indiana, acting within the territorial limits of their particular state, to make and enforce laws, rules and regulations governing motor carriers generally, or to grant or deny certificates or permits to motor carriers, and such power, authority and discretion of said bodies and authorities shall not be superseded or suspended in any respect by reason of this agreement, and all motor carriers of either state when operating in either state shall comply with and conform to all the laws, rules, regulations and safety measures as to operation including the filing of proper insurance or other required undertaking for damage to persons or property, imposed by the particular state wherein operations are being conducted, save and excepting that insofar as said laws, rules and regulations deal with or require among other things the payment of fees and taxes, compliance therewith as to such payment only shall be fully waived by the reciprocating state as elsewhere provided in this agreement.

"III. The parties hereto further covenant and agree to extend to each other full cooperation in the exchange of information as to the domicile of owners or operators of vehicles

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registered in their respective states as of July 22, 1943, and any and all other information deemed necessary or essential to the establishment of said owners' or operators' rights to the reciprocal privileges afforded by this agreement, or to the denial of such privileges upon ascertainment of his or its lack of qualifications therefor."

The question to which the above compact gives rise is to what extent, if any, it affects the disparate situation existing between Missouri and Indiana in regard to the registration of motor vehicles discussed above.

A study of the compact indicates to us that it does not cover the disparate situation which results from the different definitions of "owner" of motor vehicles in Missouri and Indiana. It is, therefore, the opinion of this department that the disparate situation which we have discussed is not affected by the reciprocity compact. We here note that we are ruling on the specific situation ~~situation~~ which you present in your letter of inquiry, and not upon any other phase of reciprocity between the states of Missouri and Indiana.

CONCLUSION.

It is the opinion of this department that complete reciprocity as regards registration of motor vehicles does not exist between the states of Missouri and Indiana, and that as a result of this fact, a motor vehicle owned and registered in Indiana and leased to a Missouri resident for a period of more than thirty days must be registered in Missouri.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Hugh P. Williamson.

Yours very truly,

JOHN M. DALTON
Attorney General

HPW:mm:sw