

RECIPROCITY:
MISSOURI AND MICHIGAN:

A commercial motor vehicle owned by a resident of Michigan and licensed by the State of Michigan, operating within the State of Missouri, engaged in the transportation of persons or property for compensation for a period exceeding ten (10) days, is subject to be licensed by the State of Missouri; a resident of the State of Michigan, carrying on a business in the State of Missouri, who owns and operates in such business any commercial motor vehicle subject to registration in the State of Missouri, would, at once, be required to register each such vehicle and pay the same fee therefor as is required with reference to like vehicles owned by a resident of the State of Missouri.

December 18, 1953

Colonel Hugh H. Waggoner,
Superintendent,
Missouri State Highway Patrol,
State Office Building,
Jefferson City, Missouri



Dear Colonel Waggoner:

This department recently received from you the following communication:

"Attached is a copy of a report submitted by Sergeant A. G. White of this department, regarding the operation of the Transamerican Freight Lines of Detroit, Michigan. Also attached is a copy of the reciprocal agreement between the States of Missouri and Michigan, which was entered into on February 9, 1944.

"It is respectfully requested that you render an official opinion regarding the operation of the vehicles owned by Transamerican Freight Lines and domiciled in the State of Missouri, as requested in paragraph 6 on Sergeant White's report."

The full Report of Sergeant White, to which you refer, reads as follows:

"1. The TRANSAMERICAN FREIGHT LINES of Detroit, Michigan have a terminal at 2306 North Broadway, St. Louis, Missouri. At this terminal, they keep two tractors known as over-the-road tractors. These tractors are primarily used to pull semi-trailers from St. Louis, Missouri to Kansas City, Missouri and return. In addition to the two over-the-road tractors, TRANSAMERICAN has two more tractors that are kept at this same terminal, which are used to move the semi-trailers locally; that is, anywhere within the greater St. Louis area.

"2. In Kansas City, Missouri, TRANSAMERICAN FREIGHT LINES have a terminal at 2716 Warwick. Here they also have two over-the-road tractors, used exclusively between Kansas City, Missouri and St. Louis; and two tractors for local delivery of the semi-trailers. In addition to these eight tractors, TRANSAMERICAN has some smaller units at each terminal for lighter pickup and delivery.

"3. All four of the over-the-road tractors have Michigan license. The two local tractors, plus the smaller units domiciled in St. Louis, are reported to have Missouri truck license. The two local tractors domiciled in Kansas City are thought to have Michigan license; it is not known which license the smaller units are carrying.

"4. On the night of October 12, 1953, KENNETH GEORGE MAY, age 42, Route 8, Kansas City, Missouri, was arrested in St. Louis County and charged with operating a motor vehicle on improper license. At the time of arrest, he was operating one of the TRANSAMERICAN over-the-road tractors domiciled in Kansas City, Missouri. He was pulling a trail-mobile semi-trailer owned by East Texas Motor Freight of Dallas, Texas. MAY had picked up this trailer at the St. Louis Terminal and was to deliver it to their terminal in Kansas City, Missouri; from there, another truck line would move the trailer west. MAY stated he has been working for the TRANSAMERICAN FREIGHT LINES for eighteen years and outside of a few rare trips to Detroit, Michigan, all of his driving has been from Kansas City to St. Louis, Missouri, and return.

"5. It is not known how authentic the information is, but TRANSAMERICAN is reported to have some tractors domiciled in Peoria, Illinois. These tractors are used to pull trailers from Peoria, to St. Louis, Missouri, and return. Illinois officials have now, after a court fight, forced TRANSAMERICAN to license these particular tractors in Illinois.

"6. It is the reporting officer's belief that the tractors and other units domiciled in Missouri and operated, primarily, intra-state, should have Missouri license. It is true the merchandise transported by these tractors is classed as inter-state shipments, but the movement of the tractors is intra-state only. Paragraph (B) on page One of our reciprocal agreement with the State of Michigan, implies these tractors must have Missouri license if used

Colonel Hugh H. Waggoner

exclusively within the State of Missouri. Would an occasional trip, such as one trip a month or even less, exclude the word 'exclusively' from the description of their type of operation and exempt them from having to license these vehicles with Missouri license? If we can verify that Illinois made TRANSAMERICAN license their vehicles in Illinois, it may assist in arriving at the correct decision."

Paragraph B of the reciprocity agreement, to which Sergeant White refers, reads as follows:

"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."

At this point we feel that it would be well to look at the reciprocity agreement between the State of Missouri and the State of Michigan, to which Sergeant White refers, and a portion of which is quoted above, with reference to its validity.

This "agreement", which was entered into on February 9, 1944, to be effective as of January 1, 1944, was negotiated and signed on behalf of the State of Missouri by Albert Miller, Chairman of the Missouri Public Service Commission, and by V. H. Steward, Commissioner of Motor Vehicles.

In regard to this, we will first observe that we are unable to find that any authority whatever is vested by Missouri law in the Commissioner of Motor Vehicles to enter into reciprocity agreements with other states. In the absence of such authorization we must conclude that the Commissioner of Motor Vehicles does not have such authorization and that, therefore, his participation in the Missouri and Michigan agreement is void and of no effect.

The Missouri Public Service Commission is authorized to enter into reciprocity contracts. Section 386.220 RSMo 1949, reads:

"The commission is hereby authorized and empowered to engage in any conferences with officials of any and all other states and the District of Columbia for the purpose of promoting, entering into, and

Colonel Hugh H. Waggoner

establishing fair and equitable reciprocal contracts or agreements that in the judgment of the commission would be proper, expedient, fair and equitable and in the interest of the state of Missouri and the citizens thereof to the end that any motor carrier of passengers or property who or which is a nonresident of the state of Missouri and operates motor vehicles into, out of, or through this state as a for hire motor carrier and who has complied with the laws of the state of his or its residence and paid all fees required by the state of his or its residence shall not be required to pay fees prescribed in section 390.110, RSMo 1949; provided, that the provisions of this section shall be operative as to a motor vehicle or motor vehicles owned by a nonresident of this state when operated for hire in Missouri only to the extent that under the laws of the state, country, or other place of residence of such nonresident motor carrier like exemptions are granted to residents of Missouri who may be conducting similar motor carrier operations for hire in the state of such nonresident."

It will be observed from a reading of the above that the authority of the Missouri Public Service Commission to enter into reciprocity contracts relates only to matters involving the Public Service Commission and fees collected by that body. It does not extend to the licensing and registration of motor vehicles, which is the subject of your inquiry and the subject of Paragraph B of the reciprocity agreement quoted above. In brief, we believe that Paragraph B deals with a matter which is beyond the scope of the Missouri Public Service Commission, and that in regard to it the Commission cannot therefore bind the State of Missouri in a reciprocity agreement, and that, therefore Paragraph B cannot be considered in determining whether reciprocity exists between Missouri and Michigan, but that this matter will have to be determined by an examination of the laws of these two states on these points.

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

Colonel Hugh H. Waggoner

operation of such vehicle within this state without registering such vehicle or paying any fee to this state, 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 Michigan, and which has been duly registered for the current year in and by the State of Michigan, may be operated by such owner or operated by his permission in the State of Missouri, without registering said motor vehicle in Missouri, or paying any registration fee in Missouri, only if a like motor vehicle duly registered for the current year in Missouri would have the same privilege in Michigan.

We would now direct your attention to Section 257.243, Public and Local Acts of Michigan, Session of 1949, the reciprocity law of Michigan, which reads:

"257.243. Nonresident owners; exemption, transportation for hire, pleasure, carrying on business. (M.S.A. 9.1943)

"Sec. 243. (a) A non resident owner, except as otherwise provided in this section, owning any foreign vehicle of a type otherwise subject to registration hereunder may operate or permit the operation of such vehicle within this state without registering such vehicle in, or paying any fees to, this state subject to the condition that such vehicle at all times when operated in this state is duly registered in, and displays upon it a valid registration certificate and registration plate or plates issued for such vehicle in the place of residence of such owner.

"(b) A nonresident owner of a foreign vehicle operated within this state for the transportation of persons or property for compensation or for the transportation of merchandise, for a period exceeding 10 days, shall register such vehicle and pay the same fees therefor as is required with reference to like vehicles owned by residents of this state.

Colonel Hugh H. Waggoner

"(c) A nonresident owner of a pleasure vehicle otherwise subject to registration under this act shall not operate the same for a period exceeding 90 days without securing registration in this state.

"(d) Every nonresident, including any foreign corporation carrying on business within this state and owning and operating in such business any vehicle subject to registration as provided in this chapter, shall be required to register each such vehicle and pay the same fee therefor as is required with reference to like vehicles owned by residents of this state."

From the above, we believe that a commercial motor vehicle owned by a resident of Missouri and licensed in Missouri, operating within the State of Michigan, engaged in the transportation of persons or property for compensation for a period exceeding ten (10) days, is subject to be licensed by the State of Michigan. Also, in view of Paragraph (d) of Section 257.243 of the Public and Local Acts of Michigan, supra, that a resident of Missouri carrying on a business in the State of Michigan, who owns and operates in such business any motor vehicle subject to registration in the State of Michigan, would be required, at once, to register each vehicle and pay the same fee therefor as is required with reference to like vehicles owned by residents of the State of Michigan.

CONCLUSION

It is the opinion of this office that a commercial motor vehicle owned by a resident of Michigan and licensed by the State of Michigan, operating within the State of Missouri, engaged in the transportation of persons or property for compensation for a period exceeding ten (10) days, is subject to be licensed by the State of Missouri. It is our further opinion that a resident of the State of Michigan, carrying on a business in the State of Missouri, who owns and operates in such business any commercial motor vehicle subject to registration in the State of Missouri, would at once, be required to register each such vehicle and pay the same fee therefor as is required with reference to like vehicles owned by a resident of the State of Missouri.

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

Very truly yours,

HPW/ld

JOHN M. DALTON
Attorney General