

MOTOR VEHICLES:
PUBLIC SERVICE COMMISSION:
SCHOOLS:
SCHOOL TRANSPORTATION:

A private bus owner who uses his bus solely for the purpose of transporting children to or from schools, whether public or private, does not need to obtain a certificate from the Public Service Commission authorizing him to do so.



September 19, 1953

Honorable Jay White
Prosecuting Attorney
Phelps County
Rolla, Missouri

Dear Mr. White:

This is in response to your request for an opinion, dated August 31, 1953, which reads, in part, as follows:

"I have been requested to obtain an opinion from you as to the following question:

- "1. Is it lawful for a bus owner who contracts with the public school district to transport children to the public schools to also make a separate contract with children going to religious and parochial schools to transport such children in the same bus and along with children going to the public schools without first obtaining public service authority to transport as a carrier of passengers other than what is required to transport children to the public schools."

Ordinarily, this office does not write opinions concerning duties and liabilities arising under laws, rules or regulations of the Public Service Commission. However, inasmuch

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as a violation of the provisions of Chapter 390, RSMo 1949, Amended Laws of Missouri, 1951, p. 547, et seq., dealing with the regulation of motor carriers and contract haulers is made a misdemeanor under Section 390.175, Laws of Missouri, 1951, we are responding to this request.

Section 390.050, Laws of Missouri, 1951, Page 552, provides that:

"1. Except as otherwise provided in section 390.030, no person shall engage in the business of a common carrier in intrastate commerce on any public highway in this state unless there is in force with respect to such carrier a certificate issued by the Commission authorizing such operations."

Section 390.060, Laws of Missouri, 1951, Page 553 provides that:

"1. Except as otherwise provided in section 390.030, no person shall engage in the business of a contract carrier in intrastate commerce on any public highway in this state unless there is in force with respect to such carrier a permit issued by the Commission, authorizing such operations."

Section 390.030, referred to in the above sections, reads, in part, as follows:

"The provisions of sections 390.011 to 390.176 shall not apply to:

* * * * *

"2. School buses."

Section 390.020, the definition section, reads, in part, as follows:

"As used in sections 390.011 to 390.176

* * * * *

"13. The term 'school bus' means any motor vehicle while being used solely to transport students to or from school or to transport students to or from any place for educational purposes."

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Prior to the 1951 amendment, Section 390.020, 5, (RSMo 1949), defining the term "school bus", read as follows:

"5. The term 'school bus,' when used in said sections, means any motor vehicle used to transport students to and from school, either public or private, or to transport pupils properly chaperoned, to and from any place within the state for educational purposes."

Prior to the 1951 amendment, it was perfectly clear, of course, that the exemption of school buses was meant to apply to buses used in transporting students to or from school, whether public or private. Under the 1951 amendment, with removal of the words "public or private" it is not so clear.

In interpreting the word "school" or "school district", when used in connection with the chapter dealing with public schools, it has been held that those words apply only to public schools. However, we see no prevailing reason why the term "school" as used in Chapter 390, with regard to the regulation of motor carriers and contract haulers, should receive such a limited interpretation. Certainly, the last portion of the definition in Section 390.020, 13, "to transport students to or from any place for educational purposes" would seem broad enough to include any educational institution, whether public or private. Therefore, we are of the opinion that a private hauler who uses his motor vehicle solely for the purpose of transporting students to or from educational institutions, whether public or private, does not need a certificate from the Public Service Commission authorizing him to do so.

CONCLUSION

It is the opinion of this office that a private bus owner who uses his bus solely for the purpose of transporting children to or from schools, whether public or private, does not need to obtain a certificate from the Public Service Commission authorizing him to do so.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. John W. English.

Yours very truly,

JOHN M. DALTON
Attorney General

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