

MOTOR VEHICLES: ( The operation of a commercial vehicle with  
 LICENSES: ) load in excess of maximum weight of license  
 MISDEMEANORS: ( is subject to penalties provided by Section  
 CRIMINAL LAW: ) 301.440, RSMo 1949. Operation of vehicle  
 PENALTIES: ( licensed as local commercial vehicle outside  
 ) local commercial zone is subject to penalties  
 ) provided by Section 301.440, supra. Operation  
 ) of vehicle on which license has expired is  
 ) also subject to punishment in accordance with  
 ( the provisions of the above mentioned section.



January 22, 1954

Hon. Max B. Benne  
 Prosecuting Attorney  
 Atchison County  
 Rock Port, Missouri

Dear Mr. Benne:

You have requested an opinion of this office as follows:

"I have three questions similar in nature that concern and pertain to the Laws of motor vehicles under Chapter 301 of the Revised Statutes of Missouri. They center around the question as to whether or not certain courses of conduct are set out in the statutes in a manner sufficiently clear so as to inform a person with no uncertainty as to whether or not he is violating the law. Section 301.440 R. S. Mo., provides a punishment for all the provisions of that chapter for which no specific punishment is provided. Section 301.060 provides for an annual registration fee for all vehicles, according to the classifications listed. However, nowhere can I find any express language stating that it shall be illegal to operate a commercial vehicle with a total load in excess of the maximum amount for which it may be registered (assuming compliance with Section 304.180), to operate a "locally licensed" commercial vehicle outside the prescribed area, or to operate an ordinary passenger car upon a validly issued but expired Missouri license.

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"My specific questions are as follows:

"1. Can a person be prosecuted under Chapter 301 or 304 for operating a commercial vehicle with a total load in excess of the maximum weight limit of the class in which he is registered? If so would the offense be for the excess weight, or for the failure to pay a proper fee for the registration?

"2. Under what section of Chapter 301, if any, could a prosecution be based for the operation of a vehicle, licensed as a Local Commercial Vehicle, outside the 25 mile radius defined in Section 301.010 (10)?

"3. Under what section of the statutes, if any, could a prosecution be based for the continued use of a validly issued license on a non commercial vehicle after it had expired? Note that there is a specific penalty for late registration under Section 301.050.

\* \* \* \* \*

"I would appreciate any ideas or opinions which you can offer to enlighten me on the above matters."

Your first question concerns the penalty for the operation of a commercial motor vehicle with a load on the vehicle in excess of the limit for which the vehicle was licensed but not above the maximum load permitted by Section 304.180, RSMo 1949.

The above mentioned section is now contained in Laws 1951, page 704.

The provision for the registration of commercial motor vehicles in accordance with their weight is now contained in Section 301.060, found in Laws 1951, pages 699-700.

It will be noted that both of the above sections were repealed as they appeared in Laws of 1949 and other sections in their place enacted in 1951. Section 304.240, RSMo 1949 was also repealed in 1951 by House Bill 325 and the law enacted

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in its stead appears in Laws 1951, pages 706-707. This last mentioned section makes the violation of any of the provisions of Sections 304.170 to 304.240 misdemeanors and provides penalties. By its own limitations this section cannot be considered as applying to any other sections than contained within those enumerated by it.

In regard to the penalty for operating a motor vehicle with weight in excess of that permitted by the annual registration fee paid, since there is no penalty provided in the section prescribing the fees to be paid for the weight carried, we must look to Section 301.440, RSMo 1949, to find a penalty provided.

Section 301.440 is as follows:

"Any person who violates any provisions of this chapter for which no specific punishment is provided, shall upon conviction thereof be punished by a fine of not less than five dollars or more than five hundred dollars or by imprisonment in the county jail for a term not exceeding two years, or by both such fine and imprisonment."

This above section is provided for violations of the registration regulations, as it reads, "any provision of this chapter for which no specific punishment is provided." The violation would be operating an improperly licensed vehicle.

In answer to your second question operating a vehicle licensed as a local commercial vehicle beyond the twenty-five mile radius is also an offense punishable under the provisions of Section 301.440, supra.

Section 301.020, RSMo 1949 provides in part as follows:

"Every owner of a motor vehicle or trailer, which shall be operated or driven upon the highways of this state, except as herein otherwise expressly provided, shall file, by mail or otherwise, in the office of the director of revenue, an application for registration on a blank to be furnished by the director of revenue for that purpose, containing:

\* \* \* \* \*

\* \* \* \* \*

"(3) If said motor vehicle be a commercial

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vehicle the weight of the vehicle and the  
desired load in pounds; \* \* \* \* \*

The Section 301.060 provides for the fees to be paid and makes the fee commensurate with the purpose for which the vehicle is to be used and the weight and purpose for commercial motor vehicles.

Quoting briefly from the last mentioned section we find the following Section 301.060 the annual registration shall be as follows:

"Annual registration fees. -- The annual  
registration fee shall be as follows:  
\* \* \* \* \*

There are separate sections for local commercial vehicles and for commercial motor vehicles. This is a licensed fee law. The law requiring a license on a motor vehicle is Section 301.020 quoted above in answer to your first question. The law requires a vehicle operating upon the highways of this State to be licensed and Subsection 5 of Section 301.130, RSMo 1949 provides as quoted in relevant portions as follows:

"5. Before being operated on any highway of this state every motor vehicle or trailer shall have displayed the license plates or temporary permit issued by the director entirely unobscured, unobstructed, all parts thereof plainly visible and kept reasonably clean and so fastened as not to swing. \* \* \*"

It will be noted that no specific punishment is provided for the violation of Section 301.060. That section simply designates the license to be used for the specific purpose and sets out the charge. It naturally follows that the use of a vehicle for a purpose or with a weight for which it has not been licensed is a violation of law punishable as provided in Section 301.440, supra.

In answer to your third question the opinion of this office to J. Hal Moore, dated September 20, 1951 is attached. This opinion states that a person operating a motor vehicle after the license has expired is subject to fine or imprisonment, and the \$2.00 late registration fee must be paid in order to register the vehicle after the license has expired.

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### CONCLUSION

It is therefore the opinion of this office that prosecution for operating a commercial vehicle with load in excess of the maximum weight for which the vehicle is registered should be for violation of the provisions of Chapter 301, RSMo 1949, as amended and the penalty is prescribed in Section 301.440, RSMo 1949.

It is further the opinion of this office that the operation of a vehicle licensed as a local commercial vehicle outside the twenty-five mile radius as defined in Section 301.010, Laws of Missouri, 1951, page 679, is a violation of the provisions of Chapter 301, and for which punishment is provided by Section 301.440, RSMo 1949.

It is further the opinion of this department that when a person operates a motor vehicle on the highways of this State a motor vehicle or trailer for which the license has expired, may be punished in accordance with Section 301.440, RSMo 1949.

The foregoing opinion which I hereby approve was written by my Assistant, James W. Faris.

Yours very truly

JOHN M. DALTON  
ATTORNEY GENERAL

JWF:A