

COMMERCIAL MOTOR VEHICLES:
RECIPROCITY BETWEEN FLORIDA
AND MISSOURI:

A commercial motor vehicle registered and owned in the state of Florida, which loads material in St. Louis, Missouri, transports it to Louisiana, Missouri, where it is unloaded, must also be registered in Missouri.



December 15, 1954

Honorable Gaylord P. O'Connor
Prosecuting Attorney
Pike County
Bowling Green, Missouri

Dear Sir:

Your recent request for an official opinion reads as follows:

"I respectfully request an opinion on the following set of facts:

"'A', a resident of the State of Florida, is the owner of a commercial motor vehicle duly registered in that state. 'A' picks up a load of pipe in St. Louis, Missouri. This load is transported to Louisiana, Missouri, where the pipe is unloaded and processed. The same pipe is then reloaded in 'A's' truck for delivery in Florida.

"Is 'A' required, under Sec. 301.270, to pay a registration fee in the State of Missouri?

"I would appreciate an opinion with as much facility as the burdens of your office permit, as the matter has recently arisen in this county."

Your inquiry raises the question whether or not Missouri and Florida have reciprocity as to commercial motor vehicles. The Missouri reciprocity statute, Section 301.270 RSMo 1949, reads:

"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

Honorable Gaylord F. O'Connor

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, 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, county 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."

The Florida reciprocity statute, Section 320.37, Florida Statutes, 1953, reads:

"The provisions of this chapter relative to registration and display of license number plates shall not apply to a motor vehicle owned by a nonresident of this state, other than a foreign corporation doing business in this state; provided, that the owner thereof shall have complied with the provisions of the law of the foreign country, state, territory or federal district of his residence, relative to motor vehicles and the operation thereof, and shall conspicuously display his registration number as required thereby; but such exemption shall not apply to motor vehicles operated for hire."

It will be noted that the concluding clause states that such exemption shall not apply to motor vehicles operated for hire.

Section 320.16, Florida Statutes, 1953, reads:

"Where any automobile is used for hire, whether for carrying passengers or freight either singly or in combinations, over the highways of the state, in interstate commerce, a charge shall be collected in the form of a registration fee initially computed and assessed on the basis of the foregoing schedule, and the same shall be collected upon the registration of the vehicle as an advance payment on the compensation entitled to be received by the state for the use of the state's highway system, but the person so registering or re-registering said vehicle shall be entitled to a refund of the entire amount collected with legal interest thereon upon making payment to the state for the mileage actually traveled by the vehicle in its use of the state's highway system, to be paid for at the rate of four cents

Honorable Gaylord P. O'Connor

per mile each way, which rate of four cents per mile each way is determined and declared to be a reasonable and just compensation to be charged and collected for the use of the improved highway system provided by the state and its several counties, districts and municipalities for the use of motor vehicles. Proof of the mileage traveled shall be made to the state motor vehicle commissioner, who shall ascertain and determine the number of miles actually traveled by the vehicle, which mileage would be subject to the charge of a mileage tax under this chapter, and the findings of said commissioner when made after full hearing shall be deemed and held to be prima facie just and correct, but subject to judicial review in appropriate proceedings brought for that purpose by the claimant against the state motor vehicle commissioner to enforce such refund."

From the above, it is plain that Missouri does not, on the basis of the statutes of Missouri and Florida, have reciprocity with Florida as to commercial motor vehicles operated for hire, and that, therefore, on the basis of the statutes alone, a commercial motor vehicle registered in Florida and operated in Missouri, either in interstate or intrastate commerce, or in both, would have to be registered in Missouri.

However, on February 25, 1947, a reciprocity agreement, which is still in effect, was entered into between the State of Missouri and the State of Florida. That agreement, on the part of Missouri, was signed by Morris Osborn, Chairman of the Missouri Public Service Commission, and by Hinkle Statler, Commissioner of Motor Vehicles. On the part of Florida, the agreement was signed by the persons designated in what is now Section 320.39, Statutes of Florida, 1953, which reads:

"The state motor vehicle commissioner of the State of Florida, the state road department of the State of Florida and the railroad commission of the State of Florida may negotiate and consummate with the proper authorities of the several states of the United States, reciprocal agreements whereby residents of such other states operating motor vehicles properly licensed and registered in their respective states, may have such privileges and exemption in the operation of their said motor vehicles, in this state, as residents of this state may have and enjoy in the operation of motor vehicles, duly licensed and registered in this state, in such other states; provided, nothing herein shall be construed to relieve

Honorable Gaylord P. O'Connor

any motor vehicle owner or operator from complying with and abiding by all other applicable laws, rules and regulations relating to safety of operation of motor vehicles and the preservation of the highways of this state. In the making of such reciprocal agreements, the said motor vehicle commissioner, the said state road department and said railroad commission shall have due regard to the advantage and convenience of motor vehicle owners and the citizens of this state.

"Any and all such reciprocal agreements consummated by said motor vehicles commissioner, the state road department and the railroad commission shall not become effective until approved by the governor of the State of Florida; provided, all such reciprocal agreements by said motor vehicle commissioner, the state road department and said railroad commission are made subject to cancellation at any time by the legislature of the State of Florida; provided, however, that nothing herein contained shall apply to rates, rules or regulations now or hereafter applicable to common or contract carriers by motor transportation companies over the highways of the State of Florida.

"The motor vehicle commissioner, the state road department and the railroad commission shall give proper publicity to the terms of every such reciprocal agreement entered into by them, or either of them."

From the above it will be seen that the persons designated to sign reciprocal agreements by the Florida statutes may, for the duration of the reciprocal agreement, suspend the operation of such Florida laws as would prevent reciprocity with other states and thereby bring the state of Florida into a position of reciprocity with another state or states. This, as to interstate commerce, was done by the aforesaid reciprocity agreement between Missouri and Florida. This is made plain by the following portion of that agreement:

"Pursuant to and in conformity with the laws of the State of Florida and the laws of the State of Missouri, it is mutually agreed between said two states acting through their authorized representatives that each state will recognize and permit the operation in that state of commercial or private motor vehicles (which term is used in its broad meaning and intended as being likewise inclusive of trailers, semi-trailers, passenger cars, buses, trucks and

Honorable Gaylord P. O'Connor

road tractors) in an interstate for-hire or private capacity when owned and properly registered in the other state without requiring the payment in the state of non-domicile (reciprocating state) of any mileage tax, registration fees, except as hereinafter provided, public service commission fees, license or 'tag fees' or any other road use taxes or motor vehicle identification fees of any nature regardless of the manner of name and designation of such fees; * * *".

This, as we pointed out before, relates only to and affects only reciprocity as to interstate commerce.

Section 5 of the agreement makes very plain the fact that intrastate operations are excluded from the agreement. It reads:

"That this agreement shall not be construed in any way as a grant of intrastate rights and privileges. Provided further that if a citizen of either state engages in a local intrastate gainful occupation or places his children in the public schools of the other state, he shall equip his motor vehicles with the proper license plates of the latter state."

We believe it to be clear that intrastate operations are involved in the situation set forth by you. You state that a commercial motor vehicle licensed and owned in Florida appears empty in St. Louis, Missouri, takes on a load of material, transports it to Louisiana, Missouri, and unloads it. This is a commercial motor vehicle operation which began and ended in Missouri, and which is distinct and separate from any operation prior to and subsequent to it. It is intrastate commerce as intrastate commerce has been defined in many cases. We here direct attention to a number of these cases.

The case of Southern Pacific Company vs. State, 165 P. 303, was one in which the court held that a railroad transporting a road show from Tucson, Arizona to Phoenix, Arizona, was an intrastate movement, subject to the jurisdiction of the Arizona Corporation Commission although the road show was engaged in a journey beginning in Texas and ending in California.

In the case of State vs. Lone Star Gas Co., 86 S.W.2d, 848, the court held that uninterrupted transportation of natural gas produced in Texas through a corner of Oklahoma and back into Texas for sale in Texas was intrastate commerce.

Honorable Gaylord P. O'Connor

In the case of *Yohn v. United States*, 280 Fed. 511, the court held that intrastate commerce is that commerce which is, during its whole course of transportation, within the jurisdiction of a single state.

In the case of *Blackmar v. Public Service Commission*, 183 Atl. 115, the court held that evidence that mixed merchandise was moved wholly within a state between termini in state showed that movement was intrastate commerce, subject to regulation by the public service commission. The case also held that motor carriers' movement of yarn from Pennsylvania throwing mills to Pennsylvania weaving mills on an all Pennsylvania route was interstate commerce, subject to regulation by the public service commission, notwithstanding that the yarn was made from raw silk transported to the throwing mills from other states, and that cloth made from the yarn in the weaving mills was transported to dye works in another state.

In view of the above cases, we believe that the movement of material from St. Louis, Missouri, to Louisiana, Missouri, constitutes intrastate commerce, which was excluded from the Missouri-Florida reciprocal agreement of February 25, 1947, and that, therefore, in the situation which you set forth, the Florida motor vehicle must be registered in Missouri.

CONCLUSION

It is the opinion of this department that a commercial motor vehicle registered and owned in the state of Florida, which loads material in St. Louis, Missouri, transports it to Louisiana, Missouri, where it is unloaded, must also be registered in Missouri.

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

Very truly yours,

JOHN M. DALTON
Attorney General

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