

June 29, 1965



Mr. Thomas L. David, Director  
Department of Revenue  
Jefferson Building  
Jefferson City, Missouri

Dear Mr. David:

This opinion is in response to your request of June 8, 1965, regarding the following:

"What is the meaning of the phrase passenger carrying vehicle as found in Section 304.555, RSMo \* \* \*"

Section 304.555, RSMo. 1963, Cum. Supp. provides:

"No four-wheeled passenger motor vehicle other than motorbuses manufactured or assembled after June 30, 1964, and designated as a 1965 or later year model, shall be sold or registered in this state unless it is equipped with at least two sets of seat safety belts for the front seat of the motor vehicle. \* \* \*"

The language of the statute limits seat belt requirements to four-wheel passenger motor vehicles--any motor vehicle that has more than four wheels whether it carries passengers or not would be required to have seat belts as required equipment.

The language of the statute requires all standard four wheel passenger carrying automobiles to be equipped with seat belts in the front seat.

The question arises with respect to a four wheel motor vehicle that is not designed specifically to carry passengers such as a pick-up truck.

In this type of motor vehicle, there is space and seating available for the carrying of passengers in the cab of the truck.

To construe the statute problem is not whether the vehicle can carry passengers, but whether the vehicle was designed specifically to carry freight or other merchandise.

Section 301.010, Subdivision [1], RSMo. 1959, relates to the registration and licensing of motor vehicles. The definition for a commercial motor vehicle in that statute is any motor vehicle that is designed or regularly used for carrying freight and merchandise or more than eight passengers. Pickup trucks or any other type of truck are under this classification.

In *State v. Lasswell*, 311 S.W.2d 356, the Supreme Court held "a commercial motor vehicle" as defined under Section 301.010 was a motor vehicle that was suitable and adaptable for the purpose. It was the purpose of the manufacturer who designed it that it be used for the transportation of goods and tangible articles of commerce, and a half ton pickup truck is a commercial motor vehicle under this Section. In that case, there was no evidence that the vehicle was even used to carry freight or articles of commerce. The vehicle involved was a Ford pickup truck with a cab and a small truck bed back of the cab. The Court said:

"Instant defendant, who runs a sawmill and makes hardwood flooring (in connection with which he operates a large 'tractor-trailer van' on which 32,000 to 34,000 pounds are hauled), argues that his Ford pickup was not adapted for use in hauling logs and hardwood flooring, and that the evidence showed only that he had carried in the bed of the pickup a spare tire and 'a bunch of tools,' such as might have been carried 'in the back end of my car.' But, defendant's argument loses sight of the fact that the determinative issue was not whether defendant's pickup actually had been used for carrying merchandise or whether the pickup was designed for use in hauling logs or hardwood flooring, but rather was whether his pickup was 'a motor vehicle designed \* \* \* for carrying freight and merchandise' [Section 301.010 (1) ], i.e., whether it was suitable and adapted for the purpose, intended by the manufacturer, of the transportation of goods and tangible articles of commerce, whatever they might have been. Of course, the purpose to which we refer is the primary or dominant purpose, as distinguished from a secondary or incidental one. Thus, the fact that passengers may be, and in fact are, transported by a motor vehicle does not establish

its status as an automobile. For, '(a) large heavy duty truck has an even wider front seat and a larger bed behind the cab in which many passengers can be, and sometimes are transported; but if, for example, such a vehicle be used to transport a troop of Boy Scouts to camp, it does not for that reason become an automobile, as distinguished from a truck. On the other hand, if one hauls a ton of lead in the rear seat and rear trunk of his sedan from one location to another, the vehicle remains a sedan.' Roller v. Hartford Accident & Indemnity Co., 24 Wash. 2d 473, 166 P. 2d 173, 178."

The mere fact that passengers can be carried in a pickup truck does not make a pickup truck a passenger vehicle.

For these reasons, the statute under consideration requires seat belts only on motor vehicles manufactured primarily for use as passenger vehicles (other than motorbuses) as distinguished from freight carrying vehicles. This also applies to station wagons which are generally designed for the purpose of carrying passengers even though they may be used to carry certain types of goods. The fact that the owner may occasionally use a vehicle for some purpose other than its primary use is immaterial.

Very truly yours,

NORMAN H. ANDERSON  
Attorney General

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