

MOTOR VEHICLES:
COMMERCIAL MOTOR VEHICLES:

A station wagon used to transport tools used in repair work is not a commercial motor vehicle.

OPINION NO. 267

September 9, 1969



Honorable Ray S. James
State Representative - 5th District
6421 Brookside Road
Kansas City, Missouri 64113

Dear Representative James:

In your letter of May 15, 1969, you requested an opinion from this office as follows:

"Is a stationwagon which is used to transport tools from one place to another to do repair work classified as a 'commercial motor vehicle.'"

Chapter 301 RSMo 1959, governs the registration and licensing of motor vehicles in this state. Section 301.010 RSMo defines the different types of motor vehicles which are required to be registered and licensed. It provides in part as follows:

"(1) 'Commercial motor vehicle', a motor vehicle designed or regularly used for carrying freight and merchandise, or more than eight passengers."

A station wagon is not described as such by the statute, but we assume it to be a self-propelled motor vehicle designed primarily as a passenger carrying vehicle.

In an opinion issued by this office on December 24, 1959, to Honorable Paul E. Williams, Prosecuting Attorney, Pike County, Missouri, we held a pickup truck used primarily for transporting persons and which is not used regularly for hauling freight and merchandise was a commercial motor vehicle under the above statute and required to be registered and licensed as such. The word "designed" and "freight and merchandise" are defined in this opinion, a copy of which is enclosed herewith.

Honorable Ray S. James

Such an opinion is based on the fact that the motor vehicle was designed by the manufacturer for the purpose of carrying freight and merchandise, even though it was not used for that purpose.

In an opinion issued by this office to Honorable John P. Ryan, State Senator, dated May 14, 1968, we ruled that an employee of a manufacturer who regularly drove a pickup truck owned by the company hauling tools and instruments used in the performance of his various tasks, and which truck was also carrying replacement parts, was a commercial motor vehicle and the driver was required to be licensed as a chauffeur. In reaching this conclusion, the pickup truck was considered as a commercial vehicle because it was designed for carrying freight and merchandise.

In an opinion issued by this office on August 25, 1969, to Harold L. Caskey, Prosecuting Attorney, Bates County, Missouri, a copy of which is enclosed herewith, we held a motor vehicle designed as a passenger carrying vehicle, but regularly used to transport freight and merchandise is required to be registered as a commercial motor vehicle. This opinion is based on the fact that it is regularly used to transport freight and merchandise.

Attention is called to the language of the statute which defines "commercial motor vehicle" as one designed or regularly used for carrying freight and merchandise. In *State v. Laswell*, 311 S.W.2d 356, the court construed the word "freight" as used in the above statute to mean the transportation of goods, and "merchandise" as embracing all tangible articles of commerce -- whatever is usually brought and sold in trade. Webster's International Dictionary, 3rd Edition defines merchandise as "The objects of commerce; whatever is usually brought or sold intrade; wares, goods; an act or business of trading, trade traffic."

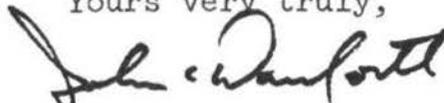
It is our view, that tools used for repair work and which are not for sale, do not come within the meaning of "freight and merchandise" as those terms are used in the above statute.

CONCLUSION

It is the opinion of this department, that a motor vehicle designed as a station wagon and used only to transport tools used in repair work is not a commercial motor vehicle under Section 301.010 RSMo, 1959.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Moody Mansur.

Yours very truly,



JOHN C. DANFORTH
Attorney General

Enclosure: Op. 311 - 8-25-69
Caskey