

MOTOR VEHICLES:  
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LOCAL COMMERCIAL  
MOTOR VEHICLES:

A person, not a farmer, operating on a local commercial motor vehicle license, may not, by changing the operating address displayed on the vehicle or by any other means, legally operate outside of more than one municipality of operation and its twenty-five mile radius during the licensed period.

OPINION NO. 364

October 16, 1969



Mr. E. I. Hockaday  
Superintendent  
Missouri State Highway Patrol  
Jefferson City, Missouri 65101

Dear Mr. Hockaday:

By your letter of July 24, 1969, you requested an opinion of this office as follows:

"A problem has arisen in our attempt to enforce the provisions of Section 301.060 as it relates to Sections 301.010 and 301.330.

To illustrate the point, John Doe, whose residence is Fulton, Missouri, was found west of Centertown, Missouri, operating on local license with an address of Fulton, Missouri, on the side. Mr. Doe, after having been arrested for exceeding the 25 mile limit on the license, changed the address to Centertown, Missouri, and is now operating from Centertown as a base. This allows him a 25 mile radius from Centertown. We contemplate that another attempt will be made to change the base of operation before finishing work on the construction job on which he is presently engaged.

We feel that Opinion No. 81, February 20, 1953, and Opinion No. 136, May 10, 1965, did not answer the question as to whether the trucker from Fulton may change his base by simply erasing one address and replacing it with another.

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Please review these two opinions and let us know whether or not a base of operation may be changed. If so, under what conditions and in what manner should we proceed to prepare a case to present for prosecution."

In answer to your question, as to whether John Doe may change his base of operation by simply changing the address displayed on the side of his truck, while continuing to operate with a local commercial license, it is the opinion of this office that such is in violation of the provisions of Chapter 301, RSMo, and is punishable under Section 301.440, RSMo.

Paragraph (10) of Section 301.010, in pertinent part, defines a local commercial vehicle for purposes of registration and licensing, as follows:

"(10) 'Local commercial motor vehicle,' a commercial motor vehicle whose operations are confined solely to a municipality and that area extending not more than twenty-five miles therefrom; . . ."

In a prior opinion for Honorable D. W. Sherman, Jr., dated February 20, 1953, this office interpreted the above-quoted provision in a context we consider analogous to the instant situation. That opinion stated, in pertinent part:

\* \* \*

"Your fourth question is: May a man, not a farmer, on said local license (local commercial motor vehicle license) go from one job to another in excess of the twenty-five mile limit and still not be guilty of a violation of the section?

"We do not believe that he may do so. . . .

"We believe that prior to its amendment, when paragraph 10 (then paragraph 8 of Section 301.101, RSMo 1949), used the word 'any' in regard to a municipality or urban community, that it might have been held that a person, not a farmer, holding a local commercial motor vehicle license, could move from job to job beyond the twenty-five mile limit. But we further believe that when the legislature changed 'any' to 'a' it did so for some purpose, and that

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such purpose could only have been to prevent precisely what your fourth question contemplates and to confine a person who comes under the first definition of paragraph 10, supra, to one municipality and the twenty-five mile area radiating therefrom.

"We feel that there are also numerous practical reasons why this should be so, and why this must have been the intention of the legislature in making the change in wording noted above. A local commercial motor vehicle license is much less expensive than a state-wide commercial license. When the legislature termed such a license as 'local' we believe that it must have meant what it said, namely, local, and limited.

"It must also be apparent that if a person coming under the first definition of paragraph 10, supra, could move from job to job and from one location to another location, he could operate throughout the state and so could, on a low price license, do, practically speaking, what he could properly and legally do only under a much more costly license, and so defeat the legislative intent and place himself in competition with other haulers who had complied with the law by securing the more costly and extensive operating license." (Emphasis added)

The same opinion further deemed it illegal for a person, not a farmer, to operate on a local commercial motor vehicle license beyond the singularly-contemplated twenty-five mile limit even on a pleasure trip.

We believe the Sherman opinion, supra, and its rationale are equally applicable here. The single "municipality" and its corresponding twenty-five mile radius, within which a duly licensed local commercial motor vehicle may operate, has also been referred to as the "municipality of operation" as distinguished from the "municipality of registration." (See Op. Atty. Gen., No. 136, Waggoner, May 10, 1965). The municipality of operation is required by Section 301.330, RSMo (as amended, Supp. 1967), to be designated "in a conspicuous place" on the vehicle. For the same reasons that it is illegal for a person to move from job to job in excess of a single munic-

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ipality of operation, while operating on a local commercial motor vehicle license, it would be anomalous to allow a person to circumvent the restrictions of Section 301.010 by simply painting a different municipality of operation on the side of the truck when he moved to another job outside the previously designated municipality of operation. Neither the situation described in the Sherman opinion, supra, nor the situation presented here are consistent with the legislature's intention to prevent the holder of a less expensive local commercial license from exercising the same privileges that are granted to the lawful holders of a more expensive state-wide commercial license. (Note: Section 301.060, RSMo 1959, prescribes the fees to be paid for the respective licenses.)

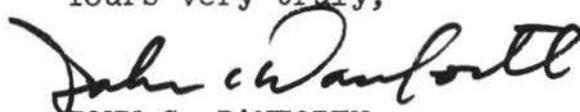
It is the opinion of this office that a single municipality of operation for the duration of the registered and licensed period is contemplated when the Director of Revenue classifies a motor vehicle as "local commercial" for registration and licensing purposes. Classification by the director is final and conclusive by virtue of Section 301.070, RSMo 1959. Accordingly, any actual change of the original municipality of operation during the same licensed period would be in violation of the limitations of Section 301.010 and inconsistent with the legislative intent underlying other provisions in Chapter 301, and would therefore subject the person(s) responsible for operation of the vehicle to punishment under Section 301.440.

#### CONCLUSION

It is therefore the opinion of this office that a person, not a farmer, operating on a local commercial motor vehicle license, may not, by changing the operating address required to be conspicuously displayed on the vehicle or by any other means, legally operate outside of more than one municipality of operation and its twenty-five mile radius during the licensed period.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Warren K. Morgens.

Yours very truly,

  
JOHN C. DANFORTH  
Attorney General