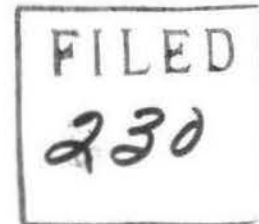


MOTOR VEHICLES:
DRIVERS' LICENSES:

1. A person operating construction equipment (not a road machine or an implement of husbandry) on a public highway is required to have a license as an operator under Chapter 302, RSMo 1969, but is not required to have a chauffeur's license.
2. A person must be sixteen years of age before he can be licensed under Chapter 302 as an operator of such construction equipment on the public highways.

OPINION NO. 230

September 15, 1970



Honorable Alden S. Lance
Prosecuting Attorney
Andrew County Court House
415 West Main Street
Savannah, Missouri 64485

Dear Mr. Lance:

This is in response to your request for an opinion from this office as follows:

"The State Highway Department Weight Station located in Andrew County recently checked the operator of a self-propelled mobile crane being operated on pneumatic tires and which was solely designed for construction work and was therefore exempt from registration under the provisions of Section 301.133 RSMo. 1959, As Amended. The operator of this vehicle was an adult, male, over the age of 21 years, and he did not have in his possession or on his person, any sort of operator's or chauffeur's license to operate a motor vehicle upon the highways of the State of Missouri. A check of the records reveal that no active license was issued to him. The driver stated that he did not regularly operate this mobile crane and was only driving from job to job on an occasional basis.

"My question is would this individual be required under Missouri Law, to have either an

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Operator's or Chauffeur's License to legally operate this type of vehicle under the circumstances stated?

"If your answer to this question is no, then I want to know whether or not a person under the age of sixteen years to whom no license can be legally issued, or a person whose license is under revocation, would be able to legally operate such a vehicle upon the public highways of the State of Missouri?"

It is our understanding that this machine is not designed as such or used for road work but is designed to be used and is used for construction work generally.

You state the self-propelled motor crane being operated on the highway was solely designed for construction equipment and, therefore, exempt from registration under Section 301.133, RSMo. Such equipment is not designed for transportation of persons or property. You inquire whether a person operating such equipment on a public highway is required to have an operator's or chauffeur's license.

Section 301.133, RSMo to which you refer applies only to the registration of motor vehicles as such under Chapter 301, RSMo 1969, and exempts motor vehicles described therein from being registered as a motor vehicle. It has no application regarding the licensing of an operator or chauffeur of motor vehicles which is governed by Chapter 302, RSMo 1969.

Section 302.010, RSMo 1969, defines the words and phrases used in Chapter 302.

Section 302.010(1) provides:

"(1) 'Chauffeur', an operator who operates a motor vehicle in the transportation of persons or property, and who receives compensation for such services in wages, salary, commission or fare; or who as owner or employee operates a motor vehicle carrying passengers or property for hire; or who regularly operates a commercial motor vehicle of another person in the course of or as an incident to his employment, but whose principal

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occupation is not the operating of such motor vehicle; . . ."

It is our view that an operator of such a machine does not come within the terms of Section 302.010(1) which defines a "chauffeur" because it is not used for hauling persons or property and, therefore, such operator is not required to have a chauffeur's license.

Section 302.010(13) provides:

"(13) 'Operator', every person, other than a chauffeur, who is in actual physical control of a motor vehicle upon a highway; . . ."

Section 302.010(9) provides:

"(9) 'Motor vehicle', any self-propelled vehicle not operated exclusively upon tracks; . . ."

It is our view the machine you describe is a motor vehicle under Section 302.010(9), RSMo 1969 and an operator of such machine on a public highway is required to have a license as an operator under Chapter 302, RSMo unless otherwise exempt.

Section 302.020, RSMo 1969, provides:

"1. It shall be unlawful for any person, except those expressly exempted by section 302.080, to:

"(1) Operate, as a chauffeur, any vehicle upon any highway in this state unless he has a valid license as a chauffeur under the provisions of this chapter;

"(2) Operate, other than as a chauffeur, any motor vehicle, except farm tractor, upon any highway of this state unless he has a valid license as an operator under the provisions of this chapter. Any person holding a valid chauffeur's license shall not be required to procure an operator's license; . . ."

Section 302.080, RSMo 1969 exempts certain persons from the

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requirements of being licensed under Chapter 302, including:

"(1) Any person while driving or operating any road machine, farm tractor, or implement of husbandry temporarily operated or moved on a highway; . . ."

A farm tractor is defined in Section 302.010(6), RSMo as follows:

"(6) 'Farm tractor', every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry; . . ."

The term "road machine" is not defined by statute. We believe that such term clearly refers to machinery used in construction or repairing roads and highways.

The term "implement of husbandry" as used in Section 302.080, supra, is not defined by statute. In Nelson v. Fightmaster, 44 P. 213, 4 Okla. 38, the court held:

". . . implements of husbandry within the meaning of an exemption statute exempting all implements of husbandry used upon the homestead does not include a well drill and a derrick, which is used for hire and only occasionally on the farm."

The term only includes such implements as are required or used by the farmer in conducting his own farming operations.

It is our view that the motor vehicle in question is not a road machine, farm tractor or implement of husbandry and does not come within the exemption provisions of Section 302.080, supra, and the person operating such machine is not exempt from being licensed as an operator.

Under Section 302.060, RSMo 1969, a license shall not be issued to any person as an operator, who is under the age of sixteen.

CONCLUSION

It is the opinion of this office that:

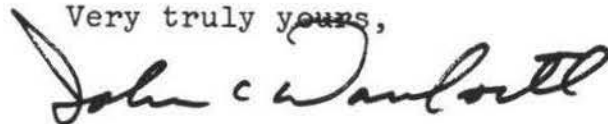
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1. A person operating construction equipment (not a road machine or an implement of husbandry) on a public highway is required to have a license as an operator under Chapter 302, RSMo 1969, but is not required to have a chauffeur's license.

2. A person must be sixteen years of age before he can be licensed under Chapter 302 as an operator of such construction equipment on the public highways.

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

Very truly yours,

A handwritten signature in cursive script that reads "John C. Danforth". The signature is written in black ink and is positioned above the typed name.

JOHN C. DANFORTH
Attorney General