

Answer by letter-Klaaffenbach

August 25, 1970

OPINION LETTER NO. 431



Honorable Phil Snowden  
State Representative, 86th District  
313 Armour Road  
North Kansas City, Missouri 64116

Dear Representative Snowden:

This letter is in response to your Opinion Request in which you ask the following:

"A constituent of mine informs me that certain members of railroad train crews have been required to furnish a drivers license information to City Police and Highway Patrol in grade crossing accidents within the State of Missouri. My first question is whether or not this is legal and if so, does Section 564.450 cover this situation or does some other section apply?

Secondly, can members of the crew be charged with careless and reckless driving and if so, what section or sections cover this particular situation?"

Section 564.450, RSMo 1969, states:

"No person operating or driving a vehicle on the highway knowing that an injury has been caused to a person or damage has been caused to property, due to the culpability of said operator or driver, or to accident, shall leave the place of said injury,

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damage or accident without stopping and giving his name, residence, including city and street number, motor vehicle number and chauffeur's or registered operator's number, if any, to the injured party or to a police officer, or if no police officer is in the vicinity, then to the nearest police station or judicial officer."

We note that this section is the same as that contained in Subsection (f) of Section 8401 of the Revised Statutes of 1939 and was later the subject of revision in 1949, House Bill 2154. In the context of the Revised Statutes of 1939 the section clearly pertained only to motor vehicles although the term "vehicle" was used in Subsection (f) instead of "motor vehicle". As you are no doubt aware a railroad train being operated exclusively upon tracks is specifically excepted from the definition of "motor vehicle" as contained in Section 301.010 (17), RSMo 1969.

We also note that the words "highway" and "vehicle" are defined in Chapter 304 relating to traffic regulations. Section 304.025, RSMo 1969, therein states:

"1. The word 'highway' whenever used in sections 304.014 to 304.026 shall mean any public road or thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in any municipality.

2. The word 'vehicle' whenever used in sections 304.014 to 304.026 shall mean any device operated on highways, except those exclusively on rails or tracks."

In our view, the operator or crew of a railroad train are not persons "operating or driving a vehicle on the highway" within the meaning of Section 565.450, RSMo 1969, and that section does not apply.

Paragraph 2 of Section 302.181, RSMo 1969, which pertains to the carrying and display of drivers licenses states:

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"The license issued shall be carried at all times by the holder thereof while driving a motor vehicle, and shall be displayed upon demand of any officer of the highway patrol, or any police officer or peace officer, or any other duly authorized person, for inspection when demand is made therefor. Failure of any chauffeur or operator of a motor vehicle to exhibit his license to any of the aforesaid officers, or other duly authorized officer, shall be presumptive evidence that such person is not a duly licensed chauffeur or motor vehicle operator."

It is our view, however, that paragraph 2 of Section 302.181 pertains only to operators of motor vehicles as defined in Section 301.010 and we know of no law requiring a member of a train crew to display a motor vehicle drivers license because of the train being involved in a grade crossing accident.

Your second question with respect to "careless and reckless driving" is not clear, however, we find no such statutory provision applicable to railroad train crews. You have not advised us concerning any statute alleged to be applicable.

We note that you additionally call into question the application of Section 9 of Article XI of the Constitution which states:

"All railways in this state are hereby declared public highways, and railroad corporations common carriers. Laws shall be enacted to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on all railroads in this state."

In our view, this section of the Constitution does not make a railway a public highway for the purpose or application of the motor vehicle traffic regulations. In this respect, the Supreme Court of Missouri in Farber v. Mo. Pac. Ry. Co., 116 Mo. 81, 22 S.W. 631, stated at l.c. 633 that the object of this provision "was to lay a foundation for certain kinds of legislative regulation

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of railways, but not to change the nature of the use of railroad property, or to divert it from the general purposes for which it was designed."

Very truly yours,

JOHN C. DANFORTH  
Attorney General