

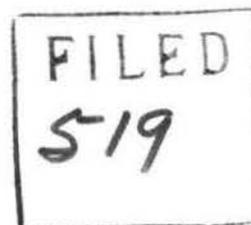
MOTOR VEHICLES:

A commercial motor vehicle used by the owner or operator to deliver limestone to farms owned or leased by other persons more than twenty-five miles beyond the municipal area where the operation is based, is not a "local commercial vehicle" within the meaning of Section 301.010(12), RSMo 1969.

December 9, 1970

OPINION NO. 519

Honorable George J. Pruneau
Prosecuting Attorney
Wayne County
100 North Main Street
Piedmont, Missouri 63957



Dear Mr. Pruneau:

This official opinion is rendered pursuant to request contained in your letter concerning the meaning of Section 301.010(12), RSMo 1969, defining "local commercial vehicle."

The facts presented in your letter may be stated as follows:

"The owner and operator of an agricultural limestone pit uses its own commercial motor vehicles to transport agricultural limestone from its 'lime pit' to all points and places within the State of Missouri. Orders are received from farm owners or managers and the agricultural limestone is taken directly from the lime pit to the farm, and then spread from the commercial motor vehicle to the land of the farm owner. No other commodity is transported in the commercial motor vehicle. The owner or manager of the farm pays for the agricultural limestone at the time it is delivered and spread."

The question is whether or not a vehicle used in delivering limestone under the described circumstances is a "local commercial motor vehicle" as defined by the statute.

The pertinent parts of the statute read as follows:

Section 301.010, RSMo, 1969.

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

* * *

"(12) '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, or a commercial motor vehicle whose property carrying operations are confined solely to the transportation of property owned by any person who is the owner or operator of such vehicle, to or from a farm owned by such person or under his control by virtue of a landlord and tenant lease; provided that any such property transported to any such farm is for use in the operation of such farm;"

The statute makes it clear that in order to qualify as a "local commercial motor vehicle" (1) the operation of the vehicle must be confined to a municipality and an area not extending more than twenty-five miles therefrom, or (2) its operations must be confined solely to transportation of the vehicle owner's or operator's property to or from a farm owned or leased by such person.

The facts in this case are that the vehicle operates beyond the twenty-five mile limit and deliveries are made to farms not owned or leased by the owner of the vehicle. Under these circumstances, the vehicle is not within the statutory definition contained in Section 301.010(12), RSMo 1969.

There seems to be no question but that a motor vehicle designed and used for hauling agricultural limestone would be a "commercial motor vehicle" within the meaning of Section 301.010(3), RSMo 1969.

A prior opinion of this office, i.e., Attorney General Opinion No. 364, issued on October 16, 1969, to Mr. E. I. Hockaday, Superintendent, Missouri State Highway Patrol, involves a construction of the statute under consideration here on a different factual basis. A copy of this opinion is enclosed for your further information.

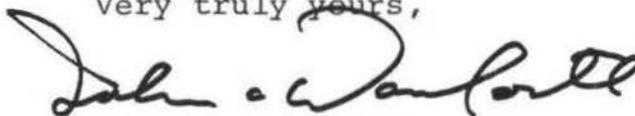
CONCLUSION

It is the opinion of this office that a commercial motor vehicle used by the owner or operator to deliver limestone to farms owned or leased by other persons more than twenty-five miles beyond the municipal area where the operation is based, is not a "local commercial vehicle" within the meaning of Section 301.010(12), RSMo 1969.

Honorable George J. Pruneau

The foregoing opinion, which I hereby approve, was prepared by my assistant, John E. Park.

Very truly yours,

A handwritten signature in black ink, appearing to read "John C. Danforth". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

JOHN C. DANFORTH
Attorney General

Enclosure
OP.364-Hockaday-1969