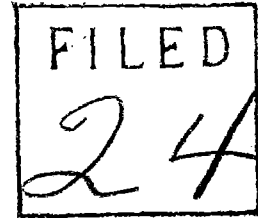


STATUTES: Constitutionality of exemption provisions of
House Bill No. 431.

August 11, 1941

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Honorable Forrest C. Donnell
Governor of the State of Missouri
State Capitol Building
Jefferson City, Missouri



Dear Governor:

Following our telephone conversation pertaining to House Bill No. 431 by which Section 5720, R. S. Mo. 1939, was amended, I make the following observation pertaining to the proviso clause of sub-section b of this Act, which included in lines 23 to 28 thereof, reading as follows:

"And provided further, this article shall not be so construed as to apply to motor vehicles operated between the State of Missouri and an adjoining state when the operations of such motor vehicles within the state of Missouri are limited exclusively to a municipality and its suburban territory as herein defined."

From the discussion pertaining to this proviso clause, the question has been raised whether or not the lawmakers are authorized to exempt from the provisions of the act the motor vehicles which come under this clause. In the case of Frost vs. Corporation Commission of Oklahoma, 278 U. S. 515, 73 L. Ed. 483, 1. c. 488, the court, in speaking of a classification made by the lawmakers in the application of a tax burden, said:

"Immunity to one from a burden imposed upon another is a form of classification and necessarily results in inequality; but not necessarily that inequality forbidden by the Constitution. The inequality thus prohibited is only such as is actually and palpably unreasonable and arbitrary. * * * "

Further discussing this question, the court said:

"* * * Immunity to one from a burden imposed upon another is a form of classification and necessarily results in inequality; but not necessarily that inequality forbidden by the Constitution. The inequality thus prohibited is only such as is actually and palpably unreasonable and arbitrary. * * * The purpose of the clause in respect of equal protection of the laws is to rest the rights of all persons upon the same rule under similar circumstances. * * *"

While this proviso clause might seem to apply inequally on motor vehicle operators, yet under the rule announced in the Frost case, unless this classification is palpably unreasonable and arbitrary, the lawmakers are authorized to make this classification. The first part of subdivision b of said Section 5720 was before the Supreme Court in State ex rel. Ferguson - Wellston Bus Co. v. Public Service Commission of State of Missouri, 58 S. W. (2d) 312, 313, the court, in speaking of this classification and the purpose thereof, said:

"* * * This proviso was made for the evident purpose of leaving to the municipalities the power to regulate the transportation systems serving the people of such cities and the surrounding territory. * * *"

Apparently, the lawmakers, by this amendment and proviso clause, intended to extend the same exemptions to the motor vehicles operated between the State of Missouri and an adjoining state as it does in the first part of subdivision b of said section.

We, therefore, do not think that this is an unreasonable and arbitrary classification, and that the lawmakers

Hon. Forrest C. Donnell

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are authorized under the constitution to do the same.

Yours very truly,

TYRE W. BURTON
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APPROVED:

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TWB:LB