

PUBLIC SERVICE COMMISSION: Under Section 5728, R. S. Missouri 1939,
MOTOR VEHICLES: the annual license issued by the Com-
mission must be attached to said motor
vehicle.

April 21, 1942

4-22

Honorable Robert W. Hawkins
Prosecuting Attorney
Pemiscot County
Caruthersville, Missouri

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Dear Sir:

This will acknowledge receipt of a request for an
official opinion under date of April 17, 1942.

"Please advise if by virtue of Sec.
5728 R. S. Mo. 1939 a holder of a
permit or license is required to
have them on the person of the one
driving and operating a truck.

"Several drivers for the Potasnick
truck line have been arrested by the
Highway patrol because they did not
have such permit or license on their
person; the license or permit being
at the Office.

"I find no provision requiring that
this permit be carried on the person."

Section 5728, R. S. Missouri 1939, provides for an
annual license fee on motor vehicles and reads in part as
follows:

"(a) In addition to the regular reg-
istration license fee imposed on all
motor vehicles in this state, and its
personal property tax, every motor
carrier, except as provided in section
5721 shall, at the time of the issuance

of a certificate of convenience and necessity and/or an interstate permit, and annually thereafter, on or between January 1 and January 15 of each calendar year, pay to the state treasurer of the state of Missouri the annual license fee, as set out in this article, for the maintenance and repair of the public highways; all such fees levied upon the issuance of a license to any motor carrier for any motor vehicle hereunder shall be reckoned from the beginning of the quarter in which such license was issued; * * * * *

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"(e) The annual license fee required by this article is intended to cover only the motor vehicle for which it is issued and none other; * * * * *"

Section 5730, Laws of Missouri 1941, page 521, l. c. 522, reads in part as follows:

"The Commission, * * * shall promulgate * * * * *. Any such safety rules promulgated, in addition to any others deemed necessary by the commission, shall include the following:

* * * * *

"The commission shall require and every motor carrier or contract hauler shall have attached to each unit or vehicle such distinctive marking as may be adopted by the commission."

The above provision specifically authorizes the Public Service Commission to promulgate safety rules, and any other

rules that the Commission deems necessary. Furthermore, subsection D, supra, indicates that it was the intention of the legislature that there should be attached to said motor vehicles some distinctive markers, as indicated in the act.

The Public Service Commission on the 14th day of September, 1931 approved certain rules and regulations known as General Order No. 27. These rules and regulations, in so far as we know, are still in effect and read in part as follows:

"In the Matter of Prescribing Rules, Regulations and Forms relating to the operation of motor carriers and contract haulers in the transportation of persons and/or property for hire by motor vehicles over and along the public highways in the State of Missouri.

"ORDERED: 1. That the following rules, regulations and forms relating to the operation of motor carriers and contract haulers in the transportation of persons and/or property for hire by motor vehicles on the public highways in the State of Missouri be and the same are hereby approved and adopted and made a part hereof and directed to be printed; that a copy thereof, duly authenticated by the Secretary of the Commission, be filed in the archives of the Commission, and that such copy, so authenticated and filed, shall be deemed an original record thereof."

The following Rule No. 27 was a part of said order and reads:

"No motor vehicle shall be operated under any certificate of convenience and necessity or contract hauler's permit without having attached to said vehicle the annual license card issued by the Commission for that vehicle, which card shall contain

sufficient information to identify the vehicle and the authority for the operation under which it was licensed."

Obviously, Rule No. 27, supra, refers to the same annual license which you now inquire about and specifically answers said inquiry by requiring same to be attached to each motor vehicle for which same was issued. In the writer's opinion this is a very reasonable rule, for the reason said license shall be issued only for individual motor vehicles and cannot be used on others and if said license were not attached to said motor vehicle it would only confuse and retard law enforcement.

It was held in Public Service Commission vs. Frisco Railway, 301 Missouri 157, l. c. 168, that the Public Service Commission may promulgate any rules necessary or proper to enable it to carry out fully the purposes of the act.

"It is not necessary to hold, and we do not hold, that the Commission is without power to make general rules or regulations other than those specified in the statute. It is entirely conceivable that the promulgation of others are 'necessary or proper to enable it to carry out fully and effectually all the purposes' of the act.*****"

Section 5731, R. S. Missouri 1939, further provides a penalty for the failure to comply fully with the rules and regulations promulgated by the Public Service Commission, and reads:

"Every owner, officer, agent, or employee of any motor carrier, contract hauler, and every other person, who violates or fails to comply with or

who procures, aids or abets in the violation of any provision of this article, or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement of the commission, and who procures, aids or abets any corporation or person in his failure to obey, observe or comply with any such order, decision, rule, direction, demand or regulation thereof shall be guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment."

In view of Section 5730, supra, requiring each motor vehicle to have distinct markers, as required by the Public Service Commission; the specific authorization of the Public Service Commission to promulgate all necessary rules and regulations; the penalty under Section 5731, supra, for failing to comply with any rules and regulations promulgated by the Public Service Commission; Rule No. 27 found in General Order No. 27 promulgated by the Public Service Commission, which specifically requires an annual license to be attached to said motor vehicle for which same was issued, it is obvious that it was the legislative intent that said annual license at all times, while said motor vehicle was being operated on the highways of this State, should be attached thereto. Also, that Rule No. 27 adopted by the Public Service Commission is a reasonable and valid regulation and leaves no doubt as to what is required of the licensee. Therefore, it is the opinion of this Department that said annual license shall be attached to the motor vehicle, for which said license was issued, at all times said motor vehicle is being operated over the highways of this State.

Respectfully submitted

APPROVED:

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