

MOTOR VEHICLES: Motor vehicle registered in Iowa operating in Missouri intrastate in transporting passengers for compensation must register with Commissioner of Motor Vehicles and pay fee.

October 9, 1947

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69

Missouri State Highway Patrol
Jefferson City, Missouri

Attention: Mr. Edmund I. Hockaday, Captain
Commanding General Headquarters

Gentlemen:

This will acknowledge receipt of your request for an opinion which reads:

"Attached is copy of letter received from D. E. Harrison, Lieutenant, Acting Commander Troop H, Missouri State Highway Patrol, St. Joseph, Missouri, which is self-explanatory.

"You will note in paragraph two that J. Harry Latham, Prosecuting Attorney, Andrew County, requests an official opinion from your department, concerning this matter.

"If you will favor us with your opinion we would appreciate an extra copy for our files."

The attached copy of letter referred to from Lt. D. E. Harrison reads:

"1. On August 8, 1947 George Edward Null, driver for the Burlington Transportation Company, was arrested at Post One for 'improper registration.' He was driving a 1947 Aero coach, Iowa licence OO-310. The point of origin was Omaha, Nebraska, destination Kansas City, Missouri, and the operation was being made on a Public Service Commission travel order. The bus driver admits picking up nineteen passengers at Burlington Junction, Missouri, discharged fourteen of them at Maryville, Missouri and discharged the other five passengers at St. Joseph, Missouri and Kansas City, Missouri.

"2. The Prosecuting Attorney of Andrew County, J. Harry Latham, is doubtful of this being a violation of the Motor Vehicle Law and desires an opinion from the Attorney General on this case as soon as possible."

The attached letter does not disclose the nature of the offense committed other than for improper registration. Upon inquiring what was meant by improper registration, you informed the writer that said coach was being operated in this state without registering same with the Commissioner of Motor Vehicles and paying the required fee for operating same in this state.

A well recognized rule of statutory construction is that in construing two or more statutes relating to the same subject, the courts should read them together and if possible harmonize them and give force and effect to each. This not only applies to statutes passed at the same session of Legislature but also to acts passed at prior and subsequent sessions. See State ex rel. Central Surety Insurance Corporation vs. State Tax Commission, 153 S.W. (2d) 43, 348 Mo. 171, Section 8367, R. S. Mo. 1939, defines "owner", "motor vehicle" and "nonresident" as used in the Motor Vehicle Act as follows:

"Wherever in this article, or in any proceeding under this article, the following words or terms are used, they shall be deemed and taken to have the meanings ascribed to them as follows: * * * * *

'Motor vehicle.' Any self-propelled vehicle not operated exclusively upon tracks, except farm tractors. * * * * *

'Nonresident.' A resident of a state or county other than state of Missouri. * *

'Owner.' The term owner shall include any person, firm, corporation or association, owning or renting a motor vehicle, or having the exclusive use thereof under lease, or otherwise, for a period greater than ten days successively. * * * "

Section 8369, R. S. Mo. 1939, requires the owner of every motor vehicle not otherwise excepted therein to register said motor vehicle with the Commissioner of Motor Vehicles and pay the registration fee, whereupon the Commissioner will issue a certificate of registration to said owner and a plate, or set of plates, bearing a particular number assigned to him. Said section reads in part:

"(a) Every owner of a motor vehicle or trailer, which shall be operated or driven upon the highways of this state, shall except as herein otherwise expressly provided, cause to be filed, by mail or otherwise, in the office of the commissioner, an application for registration on a blank to be furnished by the commissioner for that purpose, containing: (1) a brief description of the motor vehicle to be registered, including the name of the manufacturer, the motor number and character, and amount of motive power, stated in figures of horsepower; (2) the name, residence and business address of the owner of such motor vehicle; (3) if said motor vehicle be a commercial vehicle the weight of the vehicle and its rated capacity of live load, in pounds or seating capacity; (4) if such motor vehicle be a specially constructed or reconstructed motor vehicle, the application shall so state and the owner shall furnish the commissioner such additional information as he shall require.

"(b) Upon the filing of such application, exhibition of certificate of ownership and the payment of the fees hereinafter provided, the commissioner shall assign a number to such motor vehicle, and without other expense to the applicant shall issue and deliver to the owner a certificate of registration in such form as the commissioner shall prescribe, and a plate, or set of plates, bearing such number."

There is no question but that the operator referred to in your request has fully complied with the Public Service Commission laws. We checked with the Public Service Commission to determine what authority said operator had for operating upon the highways. We found that he is operating under a certificate of convenience and necessity, and also a special travel order issued by the Public Service Commission under authority of Section 5728, page 45, Laws of Missouri, 1944, Extra Session. However, that provision provides that in

addition to the regular registration license fee imposed on all motor vehicles shall at all times, except as provided in Section 5721, pay an annual license fee for the maintenance and repair of public highways and roads in part:

"(a) In addition to the regular registration 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: "

In view of the foregoing, it is difficult to argue that a nonresident operating a motor vehicle in this state does not have to register said motor vehicle with the Commissioner of Motor Vehicles and pay the required fee.

Owners of motor vehicles in another state may operate in this state without the necessity of registering with the Commissioner of Motor Vehicles and paying the required fee, provided similar exemptions are afforded owners of motor vehicles in this state operating same in the other state. This exemption is contained in Section 8375, R. S. Mo. 1939, which is known as the reciprocal provision in the Motor Vehicle Act, and reads:

"A nonresident owner, except as otherwise herein provided, owning any motor vehicle which has been duly registered for the current year in the state, country or other place of which the owner is a resident and which at all times when operated in the state has displayed upon it the number plate or plates issued for such vehicle in the place of residence of such owner may operate

or permit the operation of such vehicle within this state without registering such vehicle or paying any fee to this state, provided that the provisions of this section shall be operative as to a vehicle owned by a nonresident of this state only to the extent that under the laws of the state, country or other place of residence of such nonresident owner like exemptions are granted to vehicles registered under the laws of and owned by residents of this state."

Upon an examination of the statutes of the State of Iowa, we find the following in the Code of Iowa, Vol. I, 1946, which we assume are still in effect and read:

"Sec. 321.55. A nonresident owner, except as otherwise provided in sections 321.54 and 321.55, owning any foreign vehicle of a type otherwise subject to registration may operate or permit the operation of such vehicle within this state without registering such vehicle in, or paying any fees to, this state subject to the condition that such vehicle at all times when operated in this state is duly registered in, and displays upon it a valid registration card and registration plate or plates issued for such vehicle in the place of residence of such owner.

"Sec. 321.54. Nonresident owners of foreign vehicles operated within this state for the intrastate transportation of persons or property for compensation or for the intrastate transportation of merchandise, shall register each such vehicle and pay the same fees therefor as is required with reference to like vehicles owned by residents of this state.

"Sec. 321.56. The provisions of section 321.53 shall be operative as to a vehicle owned by a nonresident of this state to the extent that under the laws of the foreign country, state, territory, or federal district of his residence like exemptions and privileges are granted to vehicles duly registered under the laws,

and owned by the residents of this state.

"Nonresident cars shall be listed within ten days after entering the state, with the county treasurer or department, on forms provided by the department. The department will issue a permit for the period of exemption."

Section 321.53, supra, provides an exemption for non-resident owners of motor vehicles operating in the State of Iowa except those mentioned in Sections 321.54 and 321.55, supra. Section 321.54, supra, specifically requires the non-resident owner of a motor vehicle operating same in intrastate transportation of persons for compensation in the State of Iowa to register same and pay a fee in that state. Section 321.56 is in the nature of a reciprocal provision; however, it provides that Section 321.53 shall be operative to the extent that under the laws of the state of a nonresident, like exemptions and privileges are granted Iowa owners of motor vehicles operating in a nonresident state. Therefore, since nonresident owners of motor vehicles under Section 321.54 are specifically excluded from Section 321.53, we must conclude that Section 321.56 is not applicable to owners of motor vehicles that come within the provisions of Section 321.54, and therefore, such owners of motor vehicles operating same in the State of Iowa must register and pay the required fee in that state for operating said motor vehicles therein.

CONCLUSION

Therefore, it is the opinion of this department that the owner of this particular coach, carrying an Iowa license and operating same in this state under a certificate of convenience and necessity and special travel order of the Public Service Commission of Missouri, has violated the provisions of Section 8369, R. S. Mo. 1939, in failing to register said coach with the Commissioner of Motor Vehicles in Missouri and paying the required fee for operating said motor vehicle in this state, in the transportation of passengers intrastate and for compensation.

Respectfully submitted,

APPROVED:

AUBREY R. HAMMETT, Jr.
Assistant Attorney General

J. E. TAYLOR
Attorney General

ARH:VLM