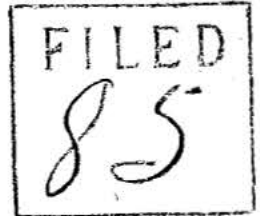


MOTOR VEHICLES: (1) "Bookmobiles" owned by County Library Districts exempt from provisions of motor vehicle registration and licensing provisions; (2) type of license required of persons employed to operate "Bookmobiles."

August 27, 1947



Mr. Hinkle Statler, Supervisor
Motor Vehicle Registration
Division of Collection
Department of Revenue
Jefferson City, Missouri

Dear Sir:

Reference is made to your request of recent date for an official opinion of this department, reading as follows:

"Numerous inquiries are being received in this office with reference to the necessity of Bookmobiles, used by County Library Districts, to comply with the registration and licensing provisions of the Missouri Motor Vehicle Laws. We request an official opinion upon this question.

"We would also like to be advised as to the type of license that should be obtained by the operators of such motor vehicles."

I.

The motor vehicles referred to in your letter of inquiry are those owned and operated by County Library Districts for the purpose of distributing books to rural subscribers. They are generally of a van type body, equipped with suitable book shelving, mounted upon a light truck or passenger automobile chassis. Such vehicles belong to the County Library Districts of the various counties wherein such districts have been established under the provisions of Article 6, Chapter 110, R. S. Mo. 1939.

A brief discussion of the nature of such County Library Districts is deemed pertinent for reasons which will appear subsequently.

The provisions of Article 6, Chapter 110, R. S. Mo. 1939, referred to, in effect, provide for the establishment of County Library Districts upon petition and election by the inhabitants of such proposed districts. Such districts, when established, are under the control and supervision of a County Library Board of five members, consisting of the County Superintendent of Schools, who serves ex officio, and four other members appointed by the County Court. Library Districts, so established, are by statute described as corporate bodies, with power to sue and be sued, and with authority to acquire and hold both real and personal property.

With particular reference to the use of "Bookmobiles," Section 14775, R. S. Mo. 1939, specifically requires that the services of the library maintained in such districts be freely accessible to all residents thereof through branches, stations, travelling libraries and book wagons. From the foregoing, it is clear that such County Library Districts not only have the power to acquire and make use of "Bookmobiles," but, in accordance with the spirit of the statutory enactments, they should do so in proper cases in order to render the services of the library available to all of the inhabitants.

Turning now to the provisions of Section 8374, found as a part of Article 1, Chapter 45, R. S. Mo. 1939, relating to registration and licensing of motor vehicles, your attention is directed to the following portion thereof:

" * * * and all other motor vehicles owned by municipalities, counties and other political subdivisions of the state shall be exempt from the provisions of this article requiring registration, proof of ownership and display of number plates: Provided, however, that there shall be displayed on each side of such motor vehicle, in letters not less than 3 inches in height with a stroke of not less than 3/8 of an inch wide, the name of such municipality, county or political subdivision, the department thereof, and a distinguishing number.

* * *"

It then becomes germane to a consideration of your inquiry to determine whether or not "Bookmobiles" owned and operated as described above are exempt under the provisions quoted. If so, it must be by reason of their ownership by a "political subdivision of the state."

The term "political subdivision of the state," in general, is defined as follows:

"A subdivision of a state to which has been delegated certain functions of local government." 49 C. J., page 1077.

We do not find a definition of this phrase in any appellate court decision of Missouri defining the term in its general sense. We are familiar with the many cases decided under the provisions of Section 12, Article VI, of the Constitution of 1875, giving appellate jurisdiction to the Supreme Court "in cases where a county or other political subdivision of the State * * * is a party," and which hold that school districts, levee districts, drainage districts, etc., are not comprehended within the term as used in that constitutional provision.

However, we believe that the Supreme Court itself has indicated that such subsidiary governmental subdivisions are "political subdivisions of the state" in a general sense. That this is true appears in *Bushnell v. Drainage District*, 102 S. W. (2d) 871, l. c. 874, wherein the court said, quoting approvingly from *Wilson v. Drainage & Levee District*, 139 S. W. 136, l. c. 140:

" * * * 'the words "other political subdivisions of the state," as used in section 12, art. 6, following as they do the word "county," mean such political subdivisions as may be created having powers similar to those of a county, and do not refer to townships, school districts, levee districts, drainage districts, and such like minor political subdivisions of the state.' See, also, *Chilton v. Drainage District No. 8 of Pemiscot County*, 332 Mo. 1173, 61 S. W. (2d) 744."

Therefore, we do not believe that these cases are authority for holding that townships, school districts, levee districts, etc., may not be "political subdivisions of the state" in the general sense, but rather, on the contrary, that they are "political subdivisions of the state."

That the General Assembly has considered school districts, at least, to be "political subdivisions of the state" within the exemption provision quoted from Section 8374, R. S. Mo. 1939, supra, appears by reason of the incorporation therein of further

provisions relating to the issuance of a particular type of plates to be used on motor vehicles for the transportation of school children.

Further, viewing the powers of the County Library Districts in the light of the general definition of the phrase "political subdivisions of the state," it seems to us that such districts are to be included within the meaning of the exemption statute quoted. We, therefore, reach the conclusion that they are exempt from the statutes relating to registration, proof of ownership and display of number plates.

II.

With respect to the second question which you have proposed, your attention is directed to the following definitions, found as a part of Section 8367, R. S. Mo. 1939:

" * * * 'Chauffeur.' An operator (a) who operates a motor vehicle in the transportation of persons or property, and who receives compensation for such service in wages, salary, commission or fare, or (b) who as owner or employee operates a motor vehicle carrying passengers or property for hire. * * *"

'Registered operator.' An operator, other than a chauffeur, who regularly operates a motor vehicle of another person in the course of, or as an incident to his employment, but whose principal occupation is not the operating of such motor vehicle. * * *"

From the foregoing, you will perceive that the type of license required by the drivers of such motor vehicles will depend upon the nature of the employment. If the driving of the "Bookmobile" is merely incident to employment as a Librarian or Assistant Librarian, such persons will be required to have a Registered Operator's license. If, on the other hand, such persons are primarily hired as drivers, then they necessarily must obtain Chauffeurs' licenses.

CONCLUSION

In the premises, we are of the opinion that "Bookmobiles" owned and operated by County Library Boards on behalf of County

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Library Districts are exempt from the provisions of the motor vehicle laws of Missouri relating to the registration, proof of ownership and display of number plates.

We are further of the opinion that persons employed by County Library Boards as Librarians or Assistant Librarians, and who drive "Bookmobiles" incident to the discharge of their duties as such Librarians or Assistant Librarians, are required to obtain Registered Operators' licenses.

We are further of the opinion that persons employed by County Library Boards and whose primary employment is for the driving of a "Bookmobile" are required to obtain Chauffeurs' licenses.

Respectfully submitted,



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APPROVED:

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