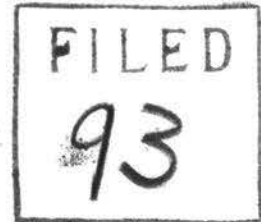


MOTOR VEHICLES: Reciprocity with States of Arkansas ,
RECIPROCITY: Illinois and Kansas.

June 23, 1953



Honorable Hugh H. Waggoner
Superintendent
Missouri State Highway Patrol
Jefferson City, Missouri

Dear Sir:

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

"By virtue of authority granted by Section 301.270, the State of Missouri has entered into reciprocal agreements with a number of states in regard to the use of licenses on motor vehicles.

"One paragraph taken from the agreement with the State of Arkansas, which is similar to the agreement with many other states, reads as follows:

"Any bus, truck or combination of truck and trailer or semi-trailer operated interstate for compensation and properly authorized, licensed and registered to be so operated in either the State of Arkansas or Missouri as the state of owner's residence, shall be permitted to come into or through the other state provided a permit is obtained from the duly authorized authority or authorities of said other state, and which permit if granted, shall be issued without any charge or application fee, provided however, that whenever an owner or operator shall maintain a vehicle at any terminal upon an interstate route, which vehicle for other legal purposes might ordinarily be regarded as engaged in "interstate commerce" by reason of

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the character of its operations, but which is engaged in such operations exclusively within the state of non-domicile, such vehicle shall not be exempt under this agreement, but shall be registered in and subject to taxation by the state of non-domicile.'

"In enforcing the provisions of our license regulations, members of this department have recently arrested the drivers of several trucks operating under lease to the Southwest Freight Lines with offices in Kansas City and St. Louis. These trucks were picking up steel in St. Louis, Missouri, and delivering it to Kansas City. The shipment had originated in Pittsburgh, Pennsylvania, and came to St. Louis by barge. The drivers, who were arrested, have been charged with using improper license for the reason that they were bearing licenses from either Illinois, Arkansas or Kansas.

"The opinion of your department is requested in regard to whether such vehicles making an intra state haul in Missouri, regardless of whether the shipment is moving intra or inter state, would be required to bear Missouri license especially when the operator is domiciled in this State."

The agreement referred to in your letter of inquiry has been executed by the Public Service Commission of the State of Missouri, under the powers granted to that body, under the provisions of Section 386.220, RSMo 1949. This section reads as follows:

"386.220. The commission is hereby authorized and empowered to engage in any conferences with officials of any and all other states and the District of Columbia for the purpose of promoting, entering into, and establishing fair and equitable reciprocal contracts or agreements that in the judgment of the

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commission would be proper, expedient, fair and equitable and in the interest of the state of Missouri and the citizens thereof to the end that any motor carrier of passengers or property who or which is a nonresident of the state of Missouri and operates motor vehicles into, out of, or through this state as a for hire motor carrier and who has complied with the laws of the state of his or its residence and paid all fees required by the state of his or its residence shall not be required to pay fees prescribed in section 390.110, RSMo 1949; * * *"

(Emphasis ours.)

You will note the reference to Section 390.110, RSMo 1949, embodied in the statute. Reference to the latter section discloses that its provisions are applicable only to fees required to be paid in addition to the regular registration license fees imposed on all motor vehicles in Missouri.

We quote from Section 390.110, RSMo 1949, in part:

"390.110. In addition to the regular registration license fee imposed on all motor vehicles in this state, and its personal property tax, * * *"

(Emphasis ours.)

Section 301.270, RSMo 1949, referred to in your letter of inquiry relates to reciprocity between the State of Missouri and other states with respect to regular license fees required to be paid upon all motor vehicles in Missouri. It reads as follows:

"301.270. 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

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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."

We do not find that any official of the State of Missouri has been empowered to negotiate any agreement or agreements under the provisions of this statute; on the contrary, the right of reciprocity with respect to the regular license fees imposed on motor vehicles must be determined by reference to the statutory laws of the foreign state under consideration.

From the foregoing, we are of the opinion that the "agreement" set out in your letter of inquiry is of no force or effect in determining the reciprocal rights existing between residents of Missouri and residents of various foreign states with respect to licenses. To determine whether or not rights exist with respect to residents of the states mentioned in your letter of inquiry, namely, Arkansas, Illinois and Kansas, and operating under the conditions outlined therein, so as to relieve such residents of such foreign states from the necessity of complying with the general laws of Missouri relating to the registration and payment of license fees to the State of Missouri, we must look to the statutes of such foreign states.

We first consider the statutory enactments of the State of Arkansas. The references to section numbers are to the Arkansas Statutes, 1947, Official Edition.

Section 75-238 grants reciprocity to nonresidents of the State of Arkansas under five enumerated circumstances. It is noted that none of the enumerated types of operation includes intrastate "for hire" hauling of the nature outlined in your letter of inquiry.

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Section 75-239 limits the operation of Section 75-238 to foreign states granting similar reciprocity to residents of the State of Arkansas. In this respect, Missouri would qualify by reason of Section 301.270, RSMo 1949, quoted supra.

Sections 75-250 to 75-252, inclusive, provide for the establishment of a commission to enter into reciprocal agreements with similarly authorized bodies of foreign states. These sections include Section 75-251, which we quote in full:

"75.251. The Commission is hereby authorized to negotiate and consummate reciprocal agreements with the duly authorized officials or representatives of any state or the several states of the United States, whereby residents of such other state or states who operate motor vehicles that are properly registered and licensed in their respective state or states may have such privileges and be exempt from such licenses and fees in the operation of their motor vehicles in Arkansas, as residents of this State are granted by such other states in the operation of motor vehicles that are duly registered and licensed under the laws of Arkansas. Provided, however, that nothing in this act (Secs. 75-250--75-252) shall be construed as relieving any motor vehicle owner or operator from complying with all laws, rules and regulations pertaining to safety of operation of motor vehicles and the preservation of the highways of this state."

This latter statute has not been the subject of judicial construction by the appellate courts of the State of Arkansas. Consequently, we are unable to determine whether under its provisions the commission created by other portions of the same act is authorized to extend full reciprocity by the State of Arkansas beyond the enumerated types of operations included in Section 75-238. Also, as mentioned previously, no statute of the State of Missouri authorizes any official of this state to enter into such reciprocity agreements with respect to motor vehicle license fees. However, if, in fact, the State of Arkansas

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does recognize an agreement executed pursuant to Section 75-251, as granting full reciprocity as to all types of operation by nonresidents within that state, then the State of Missouri would be obligated to extend such full reciprocity to residents of the State of Arkansas. As mentioned, we are unable to definitely answer this portion of your inquiry.

We have further examined the statutory enactments of the State of Illinois. References hereafter to section numbers relate to the Illinois Revised Statutes, 1951.

Chapter 95 $\frac{1}{2}$, Section 22, authorizes agreements for reciprocity with foreign states. However, this grant of reciprocity is limited by the following provision appearing therein:

" * * * Foreign corporations, partnerships and individuals owning, maintaining or operating places of business in this State and using motor vehicles or motor bicycles in connection with such places of business, shall comply with the provisions of Sections 8, 9, 10, 14, 17 and 27 of this Act insofar as the motor vehicles and motor bicycles used in connection with such places of business are concerned."

(Emphasis ours.)

Section 9, mentioned in the quoted portion of the statute, imposes license fees upon trucks operated in "for hire" hauling intrastate within the State of Illinois.

You have not advised us in your letter of inquiry as to whether a "place of business" is owned, maintained or operated in Missouri. If such, in fact, is done, then under the provisions of the Illinois statute quoted supra, a Missouri resident under similar circumstances would be required to register motor vehicles used in connection with such place of business in Illinois, and conversely residents of Illinois would thereupon be required to register motor vehicles so used by them in Missouri with this state.

We have further examined the statutory enactments of the State of Kansas. Section number references herein relate to the General Statutes of Kansas, 1949.

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Section 8-138 authorizes reciprocity with respect to license fees with other states. However, it too contains a limitation upon such full reciprocity, in subsection (b) thereof, which we quote:

"a nonresident owner of a foreign vehicle, including any foreign corporation, operated within this state for the transportation of persons or property for compensation between points within the state, shall register such vehicle and pay the same fees therefor as is required with reference to like vehicles owned by residents of this state."

CONCLUSION

In the premises, we are of the opinion that a resident of the State of Arkansas is not required to register and pay the motor vehicle license tax imposed under the laws of the State of Missouri upon vehicles used in the manner described in your letter of inquiry, provided that in the administration of the motor vehicle registration and licensing laws of the State of Arkansas, residents of the State of Missouri are accorded the same privilege.

We are further of the opinion that residents of the State of Illinois are exempt from registration of motor vehicles used as described in your letter of inquiry, unless such residents of Illinois own, maintain or operate a place of business within the State of Missouri and use such motor vehicles in connection therewith.

We are further of the opinion that residents of the State of Kansas are required to comply with the registration and licensing provisions of the laws of the State of Missouri relating to motor vehicles, for the reason that such state does not accord residents of the State of Missouri exemption from the registration and licensing laws of that state with respect to motor vehicles operated in such state by residents of the State of Missouri, in carrying on operations of the type described in your letter of inquiry.

The foregoing opinion, which I hereby approve, was

Honorable Hugh H. Waggoner

prepared by my assistant, Mr. Will F. Berry, Jr.

Yours very truly,

JOHN M. DALTON
Attorney General