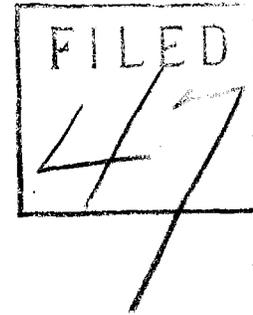


CONTRACT HAULER:-Persons whose principal business is that of hauling property or persons for another is a "contract hauler" and is required to obtain license from the Public Service Commission.

September 14, 1934.



Mr. Roy L. Kay,  
Prosecuting Attorney,  
California, Missouri.

Dear Sir:

We are acknowledging receipt of your letter in which you inquire as follows:

"Mose Newburger of St. Louis, Missouri is buying mules from the farmers in this county, Moniteau County, Missouri, and some truckmen are hauling them from the farm direct to the St. Louis market for Newburger. Do the truckmen in hauling these mules after Newburger has bought them violate the truck law? The Truckmen do not have a certificate of Convenience and Necessity from the Public Service Commission.

"I am sending this down by Mr. A. C. Yontz of Tipton, Missouri. Please advise me as I understand that this act will be repeated here in this county on to-morrow, April 7th."

Subdivision (c) of Section 5264, Laws of Missouri 1931, page 305, provides as follows:

"The term 'contract hauler,' when used in this act, means any person, firm or corporation engaged, as his or its principal business, in the transportation for compensation or hire of persons and/or property for a particular person, persons, or corporation to or from a particular place or places under special or individual agreement or agreements and not operating as a common carrier and not operating exclusively within the corporate limits of an incorporated city or town, or exclusively within the corporate limits of such city or town and its suburban territory as herein defined."

Section 5265 of the same act, which deals

with exemptions, provides that the act shall not apply to "motor vehicles used exclusively in transporting farm and dairy products from the farm or dairy to warehouse, creamery, or other original storage or market." It appears from your letter that these truckmen are not transporting farm and dairy products to market so as to come within the above exemption. The mules which they haul do not belong to them, but belong to Mr. Newburger and they are furnishing transportation for him. Subdivision (c) of Section 5264, quoted above, provides that any person who engages as his or its principal business in the transportation of property from a particular place under a special or individual agreement and not operating as a common carrier is a "contract hauler." It is obvious that these truckmen are not common carriers. It appears to us that the solution of your inquiry therefore depends upon whether the principal business of the persons involved is that of hauling property for other persons. Since you term them "truckmen" it would seem that that must be their principal business, but whether or not it is their principal business so as to bring them in as a "contract hauler" is a question of fact.

We do not understand that because a man owns a truck and because he occasionally hauls for another person that this fact makes him a "contract hauler;" for instance, a farmer may own a truck and occasionally haul for hire for some of his neighbors or others, but such fact would not make him a "contract hauler" as we interpret the Statute. The term "contract hauler", as we understand it from the definition of the Statute, was meant to cover those individuals whose principal business or livelihood was derived by hauling persons or property for others.

It is therefore our opinion that whether or not the man in question can be required to take out a license from the Public Service Commission depends upon the facts and circumstances of the particular case. If the principal business of the man in question is that of hauling property or persons for other people, then he is a "contract hauler" within the meaning of the Statute, and if he operates as such without having obtained a license from the Public Service Commission he has violated the law. If, on the other hand, hauling is not his principal business and he occasionally hauls for another we do not believe that he comes within the definition of a "contract hauler."

Very truly yours,

APPROVED:



(Acting) Attorney General.

FRANK W. HAYES,  
Assistant Attorney General.