

May 28, 1974

OPINION LETTER NO. 195
Answer by letter- Wieler

FILED
195

Honorable Phil Snowden
Representative, District 20
6317 North Antioch Road
Gladstone, Missouri 64119

Dear Representative Snowden:

This is in response to your request for an opinion as to the necessity of certain individuals possessing chauffeur's licenses. Specifically, you set forth three examples:

"1. 'A' railroad wants to move a train crew from its yard in Northeast Kansas City to its yard at Ninth Street using a company vehicle and which the driver is a regular driver of the company vehicle. Would this driver be required to have a chauffeur license as set out in Section 302.010 RSMo?

"2. 'B' railroad wants to move a train crew from Chaffee, Missouri to Neeley, Missouri in a company vehicle using a member of the train crew as its driver, who does not regularly drive such vehicle, but is paid to operate the train and not the vehicle, does this driver have to have a chauffeurs license as set out in Section 302.010 RSMo?

"3. A railroad wants to move such train crew as stated in the first and second examples but the Superintendent or Trainmaster is the driver of the company vehicle, would the Superintendent or Trainmaster have to have a chauffeurs license as set out in Section 302.010 RSMo?"

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In addition, you have informed us that the movement of train crews takes place on a daily basis and that the movements could be as many as four or five times per hour, or once a day, depending upon the arrival of trains. Also, you have indicated that a crew usually consists of five people and they are moved about in passenger vehicles, trucks, or carryalls.

Section 302.010(1), RSMo 1969, defines "chauffeur" as follows:

"(1) 'Chauffeur', an operator who operates a motor vehicle in the transportation of persons or property, and who receives compensation for such services in wages, salary, commission or fare; or who as owner or employee operates a motor vehicle carrying passengers or property for hire; or who regularly operates a commercial 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;"

In your first example, it is our opinion that an individual who functions as a regular driver of a company vehicle for the purpose of hauling train crews to and from various points is a "chauffeur" within the meaning of the statute. Such a person is clearly operating a motor vehicle in the transportation of persons and, inasmuch as it is part of his regular duties for the company, it cannot be argued that he does not receive compensation in the form of wages for performing these duties.

With respect to your second example, it is our opinion that an individual who drives a company vehicle to move a train crew from one point to another only occasionally or on an infrequent basis and who is paid by the company for operating a train and not driving a crew vehicle, as reflected in his employment contract, is not a "chauffeur" as defined by statute. See Opinion No. 227 issued August 5, 1964, to Bill D. Burlison (copy attached).

However, your statements indicate that the movement of train crews in example No. 2 is on a regular basis. Presumably, the members of such crews take turns in driving through some sort of arrangement among themselves. This being so, it must be argued that such operation takes place on a regular basis. In keeping with the final clause of Section 302.010(1), every member of a train crew who operates a company vehicle for the purpose of moving that crew from one point to another on a regular basis would

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need to be licensed as a chauffeur if such vehicle were licensed as a commercial motor vehicle, even though he received no compensation for this service.

The answer to your third question depends upon the extent and nature of the duties of a superintendent or a trainmaster. In response to our questioning, you indicate that the duty of the superintendent or trainmaster is to oversee the entire operation of his assigned territory. This being so, the movement of a train crew by company vehicle from one point to another by the superintendent or trainmaster is part of his regular duties and, presumably, he receives part of his compensation for performing such duties. Accordingly, it is our opinion that such an individual would require a chauffeur's license in order to move train crews from one point to another in a company vehicle.

Yours very truly,

JOHN C. DANFORTH
Attorney General

Enclosure: Op. No. 227
8-5-64, Burlison