

MOTOR VEHICLES: Service of process, Laws of Missouri, 1941, page 435, 'the word "person" includes corporations.

November 15, 1941

11-19

Honorable Dwight H. Brown
Secretary of State
Jefferson City, Missouri



Dear Sir:

This Department is in receipt of your letter of November 8, 1941, wherein you request an opinion involving the following facts:

"Under SB-67 approved June 26, 1941, appearing in Session Laws, 1941, at page 435, I have been served by the sheriff with summons directed to a corporation located in Dallas, Texas. The law does not seem to include artificial persons.

"Will you please favor me with an opinion as to whether service upon non-resident corporations, owners of vehicles driven on Missouri highways, is within this new law?

"If your answer be affirmative, is there any other envelope inscription to be placed on my mailing, than "Deliver to Addressee Only"? It occurs to me that the letter carrier might require more definite instructions."

The Act passed by the General Assembly in 1941, Laws of Missouri, page 435, relates to civil actions against non-resident owners, users and operators of motor vehicles and trailers in the State of Missouri.

You desire to know, in the first instance, whether or not the manner of service, as imposed on you under Section 5, includes corporations as well as individuals. The Act, at page 436, Section 3, defines the term "person" as follows:

"The term 'Person' as used in Section 1, hereafter shall mean:

"a. The owner of the motor vehicle or trailer, whether it is being used and operated personally by said owner or by his agent.

"b. An agent using and operating the motor vehicle or trailer for his principal.

"c. Any person who is in charge of the motor vehicle or trailer and of the use and operation thereof with the express or implied consent of the owner."

The word "corporation" is not used in any place in the Act. There is nothing to indicate one way or the other as to whether or not the Legislature intended to include corporations.

It was held in the decision of City of Webster Groves v. Smith, 340 Mo. 798, that the statute defining person to include any individual, firm, corporation, et cetera, did not apply to a municipal corporation. In the decision of State ex rel. Burnes National Bank v. Duncan, 302 Mo. 130, it was held that in many instances where the word "person" is used in a statute, it is construed to include corporation. The use of the term applies particularly to criminal statutes; that it depends upon the context and the intent with which the term is employed. There are numerous decisions in foreign states (Words and Phrases, vol. 32,

p. 222), holding that the word "person" includes corporations. The decisions refer to civil as well as criminal cases (City of St. Louis v. Rogers, 7 Mo. 19).

We think the matter can be decided by referring to the statutes of Missouri. Under Section 3209, R. S. Missouri, 1939, referring to definitions of terms, the word "person" is defined as "including a body of persons whether incorporated or not."

Under the motor vehicle chapter, Section 8367, the word "person" is defined as including "firm, corporation, partnership or association." In defining the term "person", Section 3 uses the expression "or by his agent," "or trailer for his principal." We are of the opinion that the statute is broad enough in using the term "person" to include corporations as well as individuals.

You next inquire that if our ruling to the above question be in the affirmative, whether or not it is necessary to inscribe any additional direction on the envelope containing the service.

Section 7, page 436, is as follows:

"The term 'Restricted, Registered Mail' means mail which carries on the face thereof in a conspicuous place, where it will not be obliterated, the endorsement, 'Deliver to Addressee Only', and which also requires a return receipt or a statement by the Postal authorities that the addressee refused to receive and receipt for such mail."

It appears that the only requirement made by the Legislature is to the effect that you should mark the envelope "Deliver to Addressee Only."

Hon. Dwight H. Brown

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We suggest that when the petition, in addition to the name of the corporation involved in the litigation, includes the names of the officers of the corporation, said names of the officers may be included on the face of the envelope.

Respectfully submitted,

OLLIVER W. NOLEN
Assistant Attorney General

APPROVED:

VANE C. THURLO
(Acting) Attorney General

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