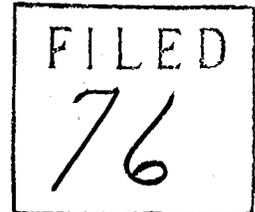


MOTOR VEHICLES: Person moving to this State from another state with intention to become a resident of this State and using foreign registered motor vehicle in connection with business in this State, should register motor vehicle in this State.

October 9, 1945



Honorable Allen Rolston
Prosecuting Attorney
Lancaster, Missouri

Dear Mr. Rolston:

Under date of October 4, 1945, you wrote the Attorney General making the following request for an opinion:

"As prosecuting attorney of Schuyler County, I have had the following proposition put before me, and I do not know how to answer it or how to proceed.

Mr. Doud has been a resident of the State of Iowa where his home and household goods are. His family consist of himself and wife. On June of this year he purchased an interest in a cleaning establishment, in Lancaster, Missouri. He and his wife have been operating it ever since, but staying temporarily with some of his wife's relatives at Downing, Missouri. It is his declared intention to move to Lancaster as soon as he can get a location. He owns and operates an automobile bearing an Iowa license plate. He uses this automobile driving to and from the place he stays to his place of business, and also in collecting and distributing clothing cleaned and pressed in the establishment. He frequently, and at irregular times makes trips to his home in Iowa.

"The question is whether or not he is required to take out a Missouri license

on his car. I can not find any law authorizing a prosecution in cases of this kind, the way I understand the law to be. "

The Missouri statutes relating to the registration of motor vehicles and prescribing the fees therefor, are found in Article 1, Chapter 45, R. S. Mo. 1939. Certain amendments to said article and chapter are found in Laws of 1943, and your attention is directed to sub-paragraph "(a)", Section 8369, R. S. Mo. 1939, as amended Laws of 1943, page 664, which is as follows:

"Every owner of a motor vehicle or trailer, which shall be operated or driven upon the highways of this state, shall except as herein otherwise expressly provided, cause to be filed, by mail or otherwise, in the office of the Commissioner, an application for registration on a blank to be furnished by the Commissioner for that purpose, containing: (1) a brief description of the motor vehicle to be registered, including the name of the manufacturer, the motor number and character, and amount of motive power, stated in figures of horsepower; (2) the name, residence and business address of the owner of such motor vehicle; (3) if said motor vehicle be a commercial vehicle the weight of the vehicle and the desired load in pounds; (4) if such motor vehicle be a specially constructed or reconstructed motor vehicle, the application shall so state and the owner shall furnish the Commissioner such additional information as he shall require."

Under this law it would appear that every owner of a motor vehicle which is operated and driven upon the highways of this State, is required to register the same. However, by the provisions of Section 8375, R. S. Mo. 1939, the system of reciprocity is authorized for nonresidents who come into this State bringing motor vehicles registered in the state of their residence. This section is as follows:

"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 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."

The latest motor vehicle laws of the State of Iowa, which we have been able to find, are found in Compilation of Laws Pertaining to Motor Vehicles and Related Subjects, prepared in 1943 and taken from the 1939 Code of Iowa, together with changes and additions made by the Forty-ninth and Fiftieth General Assemblies of the State of Iowa. Referring to this Compilation, we find on page 46, Section 5001.02, which is as follows:

"Every motor vehicle, trailer, and semi-trailer when driven or moved upon a highway shall be subject to the registration provisions of this chapter except:

"1. Any such vehicle driven or moved upon a highway in conformance with the provisions of this chapter relating to manufacturers, transporters, dealers, or nonresidents as contemplated by section 5003.01, or under a temporary registration permit issued by the department as hereinafter authorized;

"2. Any such vehicle which is driven or moved upon a highway only for the

purpose of crossing such highway from one property to another;

"3. Any implement of husbandry;

"4. Any special mobile equipment as herein defined;

"5. Any vehicle which is used exclusively for interplant purposes, in the operation of an industrial or manufacturing plant, consisting of a single unit comprising a group of buildings separated by streets, alleys, or railroad tracks, and which vehicle is used solely to transport materials from one part of the plant to another or from an adjacent railroad track to the plant and in so doing incidentally using said streets or alleys for not more than one thousand feet;

"6. Any vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails."

This section is followed by Section 5001.03 which exempts from the operation of the registration law vehicles owned by the United States, the State of Iowa, counties, municipalities and other subdivisions of government within the State of Iowa.

Sections 5003.01, 5003.02, 5003.03 and 5003.04 pertain to nonresident owners of the State of Iowa who are operating motor vehicles in that state which are registered in other states and the granting of reciprocity to them. These sections are as follows:

"5003.01 Nonresident owners exempt.
A nonresident owner, except as otherwise provided in sections 5003.02 and 5003.03, owning any foreign vehicle of a type otherwise subject to registration may operate or permit the operation of such vehicle within this state without registering such vehicle in, or paying

any fees to, this state subject to the condition that such vehicle at all times when operated in this state is duly registered in, and displays upon it a valid registration card and registration plate or plates issued for such vehicle in the place of residence of such owner."

"5003.02 Nonresident carriers. Nonresident owners of foreign vehicles operated within this state for the intrastate transportation of persons or property for compensation or for the intrastate transportation of merchandise, shall register each such vehicle and pay the same fees therefor as is required with reference to like vehicles owned by residents of this state."

"5003.03 Nonresidents employed in state. Every nonresident, in addition to those mentioned in section 5003.02, but not including a person commuting from his residence in another state or whose employment is seasonal or temporary, engaged in remunerative employment or carrying on business within this state and owning and operating any motor vehicle, trailer, or semitrailer within this state, shall be required to register each such vehicle and pay the same fees therefor as is required with reference to like vehicles owned by residents of this state."

"5003.04 Scope of exemption. The provisions of section 5003.01 shall be operative as to a vehicle owned by a nonresident of this state to the extent that under the laws of the foreign country, state, territory, or federal district of his residence like exemptions and privileges are granted to vehicles duly registered under the laws, and owned by the residents of this state..

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"Nonresident cars shall be listed within ten days after entering the state, with the county treasurer or department, on forms provided by the department. The department will issue a permit for the period of exemption."

Your letter states that the person who has come to this State from the State of Iowa has declared his intention of becoming a resident of Missouri, and further, that he is using a motor vehicle, which has previously been registered in the State of Iowa, in connection with his business which he is operating in this State.

The Missouri law requires the registration in Missouri of all motor vehicles operated or driven on the highways of the state, with the exception of certain vehicles owned by nonresidents temporarily within the state where the state of residence of the nonresidents grants to residents of Missouri the privilege of operating motor vehicles registered in Missouri without registering the same in such foreign state.

Where a person has a residence is a question to be determined from the facts. A legal residence is acquired by physical presence in a place for the necessary length of time to acquire a residence, coupled with the intention to make such place the legal residence of the person. Under your statement the man has declared his intention of acquiring a residence in Missouri and is now present within this state, although he has not been here a sufficient length of time to acquire a voting residence. If his presence here, coupled with his declared intention of becoming a resident, is sufficient to constitute him a resident, for the purpose of the motor vehicle registration law, then he should register his motor vehicle in this state.

However, if the facts and the length of the time spent in Missouri to date do not justify the registration of the motor vehicle by reason of the person's not having acquired a residence within this state, attention is directed to Section 5003.03, supra. By this section the State of Iowa expressly requires nonresidents carrying on business in the State of Iowa and owning and operating a motor vehicle, to register such vehicle in the State of Iowa. This section would preclude permitting residents of Iowa, engaged in business in Missouri and owning and operating

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a motor vehicle, from operating such motor vehicle registered in Iowa, in Missouri, without first registering such vehicle in Missouri.

Conclusion

The motor vehicle mentioned in your letter should be registered in Missouri. The owner is either a resident of Missouri and should register such vehicle for that reason, or, if not a resident of this State but of Iowa, should register the vehicle for the reason that the State of Iowa would not permit a Missouri resident to operate a Missouri registered motor vehicle in Iowa under the circumstances mentioned in your letter without registering such vehicle in the State of Iowa.

Respectfully submitted,

W. O. JACKSON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

WOJ:EG