

MOTOR VEHICLES: Operating vehicle in Missouri registered under the Dealer's and Manufacturer's Law of Kansas; necessity of chauffeur's license of person operating such vehicle.

June 21, 1946



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Mr. J. H. Chamberlin
Prosecuting Attorney
Cass County
Harrisonville, Missouri

Dear Sir:

This department is in receipt of your recent letter requesting an opinion based upon the following facts:

"I would appreciate your valued opinion on the following:

"1. If a man who operates a Garage in Kansas was coming over into Missouri to pick up wrecked cars and the only license he has on his wrecker is a dealer's license for Kansas, would the case be subject to prosecution by the Courts in Missouri, and if so, what would be the proper charge against the operator of the truck bearing a Kansas Dealer's License and using the truck as a wrecker and for towing wrecked cars back from Missouri to Kansas.

"2. If the operator of such truck did not have any Kansas Chauffeur's license and no Missouri Chauffeur's License would he be subject to prosecution in the State of Missouri on a charge of failing to have the proper Chauffeur's license."

Answering question No. 1, we refer to Section 8-130 of the General Statutes of Kansas 1935, providing for the registering of motor vehicles by manufacturers and dealers, and

which, in part, is as follows:

"A manufacturer of or dealer in motor vehicles, trailers or semitrailers, demonstrating, displaying or exhibiting any such vehicle upon any highway in lieu of registering each such vehicle, may obtain from the department, upon application therefor upon the proper official form, and payment of the fees required by law, and attach to each such vehicle two plates, which shall bear thereon a distinctive number, also the name of this state, which may be abbreviated, and the year for which issued, together with the word 'dealer' or a distinguishing symbol indicating that such plate or plates are issued to a manufacturer or dealer, and any such plates so issued, may during the calendar year for which issued, be transferred from one such vehicle to another owned or operated by such manufacturer or dealer, when such vehicle is being used primarily as a demonstrator, or is being displayed or exhibited, or is being used as a so-called service car, and at no other time or for no other purpose shall such plates be used. * * *"

As can be readily observed, the Kansas Statute permits the operation of a service car by a dealer or manufacturer when a dealer's license is displayed thereon, so that the operation of a motor vehicle, as described in your request for an opinion, would be proper in Kansas when the same was registered under a dealer's license.

Both Missouri and Kansas have reciprocity statutes governing the operations of motor vehicles. Section 8-138 of the General Statutes of Kansas 1935, provides the State of Kansas shall grant reciprocity to other states in the following manner:

"(a) A nonresident owner, except as otherwise provided in this section, owning any foreign vehicle which has been duly registered for the current calendar year in the state, country or other place of which the

owner is a resident, and which at all times when operated in this 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 fees to this state. * * * * Provided, That any exemption granted in this section to non-residents shall apply to motor vehicles owned by nonresidents only to the extent that the laws of the state in which such owner resides guarantees like exemptions and privileges to motor vehicles owned and operated by residents of Kansas, or to the extent that the proper authorities of the state in which such owner resides grant exemptions or reciprocity of privileges to motor vehicles owned and operated by residents of Kansas: Provided further, That all officers in the state of Kansas charged with the enforcement of this act shall grant to all nonresident owners of motor vehicles privileges of operation within this state equal to the privileges granted in such foreign states to motor vehicles owned and operated therein by residents of Kansas. * * * *"

Section 8575, Mo. R.S.A., grants reciprocity by law to other states in the operation and licensing of vehicles, and 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."

An examination of the reciprocity statutes of these two states clearly indicates an intent to fully recognize the licensing and registration of motor vehicles under a dealer's and manufacturer's provision.

As to question No. 1, it is the opinion of this department that since the State of Kansas permits the operation of a service car under a dealer's registration, the operation of such vehicle in Missouri would be proper under the general reciprocity statutes hereinbefore quoted.

Question No. 2 refers to the requirement of a chauffeur's license for the operator of the vehicle described in your request. Section 8-201 of the General Statutes of Kansas 1935, defines the term "chauffeur" as follows:

"'Chauffeur.' Every person who is employed for the principal purpose of operating a motor vehicle, and every person who drives a motor vehicle while in use as a public or common carrier of persons or property: Provided, that this classification shall not apply to any person operating a truck used in the transportation of farm products from point of origin to market."

Section 8-202, General Statutes of Kansas 1935, enumerates persons required to have a license, and is as follows:

"No person except those expressly exempted under the provisions of this act shall drive any motor vehicle upon a highway in this state unless such person upon application has been licensed as an operator or

chauffeur by the department under the provisions of this act."

Section 8-203, General Statutes of Kansas 1935, enumerates persons exempt, and is as follows:

"(a) No person shall be required to obtain an operator's or chauffeur's license for the purpose of driving or operating a road roller, road machinery, or any farm tractor or implement of husbandry temporarily drawn, moved or propelled on the highways. (b) Every person in the service of the army, navy or marine corps of the United States, and when furnished with a driver's permit, and when operating an official motor vehicle in such service, shall be exempt from license under this act."

Section 8367, R.S.A. No., defines the term "chauffeur" as follows:

"'Chauffeur.' An operator (a) who operates a motor vehicle in the transportation of persons or property, and who receives compensation for such service in wages, salary, commission or fare, or (b) who as owner or employee operates a motor vehicle carrying passengers or property for hire."

Section 8372, R.S.A. No., requires that every person desiring to operate a motor vehicle as a chauffeur shall first obtain a chauffeur's license.

Under the requirements and definitions of both Missouri and Kansas statutes the operation of said service car would require the procuring of a chauffeur's license.

As to question No. 2, it is the opinion of this department that the operation of the service car, described in your

request for an opinion, in the state of Missouri by a resident of Kansas, without having procured a chauffeur's license from either Kansas or Missouri, would be a violation of the Missouri statute requiring said operator to have a chauffeur's license.

Conclusion.

It is, therefore, the opinion of this department that the operation of a service car in Missouri, registered under the Kansas dealer's and manufacturer's provision, by a resident of Kansas would not be a violation of the laws of Missouri. It is our further opinion that the person operating said vehicle in Missouri would be required to have a chauffeur's license from either Missouri or Kansas, and the failure to have such chauffeur's license would be a violation of the laws of Missouri requiring said operator to have such chauffeur's license.

Respectfully submitted,

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APPROVED:

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