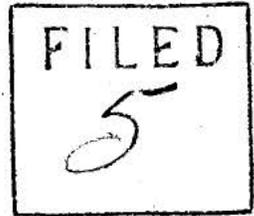


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COURT REPORTERS: Allowed amount actually expended in maintaining privately owned automobile while traveling in exercise of official duties.

August 11, 1947



8/13

Honorable Garnett L. Bartram
Prosecuting Attorney
Nodaway County
Maryville, Missouri

Dear Sir:

This is in reply to your letter of August 4, 1947, requesting an official opinion from this department, which reads as follows:

"Section 13347 R.S. Mo. 1939 among other things provides that a Court Reporter

"Shall be allowed and paid all sums of money actually expended only in necessary hotel and traveling expenses while engaged * * *"

"Our Court Reporter has asked me how much he may be permitted to draw per mile for the use of his own private car when he uses it in attending court, as mentioned in this section.

"Does the State Auditor have a maximum allowance for the use in said business of private automobiles?"

"We understand, of course, that the pay in this case does not come from the State Auditor but from the Counties, but I take it that I would, as Prosecuting Attorney, be justified in limiting the expenditure to the figure adopted by the State Auditor."

State officials and employees are allowed five cents per mile for travel by privately owned automobiles; no other expense is allowed. This allowance has no application in the present case.

Section 13347, R.S. Mo. 1939, provides as follows:

"Every official court reporter of a circuit or a criminal court in counties having forty-five thousand inhabitants and less shall be allowed and paid all sums of money actually expended only in necessary hotel and traveling expenses while engaged in attending any regular, special or adjourned term of court at any place in the circuit in which he is appointed, other than the place of his residence therein, or while engaged in going to and from any such place for the purpose of attending such terms of court. Such moneys shall be paid out of the county treasuries of the respective counties in said district in proportion to their respective populations."

You will note that the above provision does not set out an arbitrary amount to be allowed said court reporters for each mile traveled in the exercise of their duties, but rather provides that the amount actually expended for necessary travel expenses shall be allowed. Said provision necessarily has reference to travel by privately owned automobile as well as by bus or railroad, therefore it is quite evident that the traveling allowance of official court reporters using privately owned automobiles is that amount which is actually expended in maintaining said automobiles while traveling in the exercise of their official duties. Said statute is plain and unambiguous in its terms and should be given a literal construction. *Woodside v. Dent County*, 308 Mo. 227, 271 S.W. 766, 1.c. 767. Where a statute is plain and unambiguous it must be given effect as written. *St. Louis Amusement Co. v. St. Louis County*, 147 S.W. (2d) 667, 1.c. 669. We cannot search for a meaning beyond the statute itself. *State v. Phillips Petroleum Co.*, 160 S.W. (2d) 764, 1.c. 769.

In the case of *Norberg v. Montgomery*, 173 S.W. (2d) 387, the court said at page 390:

"We think the language of the Statute is plain and unambiguous, and the intent of the Legislature is clear, as we have already found. 'Rules for the interpretation of statutes are only intended to aid in ascertaining the legislative intent, "and not for the purpose of controlling the intention or of confining the operation of the statute within narrower limits than was intended by the lawmaker." Sutherland on Statutory Const., Sec. 279. If the intention is clearly expressed, and the language used is without ambiguity, all technical rules of interpretation should be rejected.' State ex rel. Wabash Ry. Co. et al. v. Shain, 341 Mo. 19, 106 S.W. (2d) 898, loc. cit. 899, 900."

We submit that the allowance intended by the Legislature in enacting Section 13347, supra, is the exact amount expended (State v. Woodside, 112 Mo. App. 451) in necessary travel by the most usually traveled and shortest practicable route (Hitch v. United States, 66 Fed. 937; United States v. Nix, 189 U.S. 199).

Conclusion.

In view of the foregoing, it is the opinion of this department that an official court reporter using a privately owned automobile is allowed, under the provisions of Section 13347, R.S. Mo. 1939, that amount actually expended in maintaining said automobile while engaged in travel, as authorized by said section, in the exercise of his official duties.

Respectfully submitted,

DAVID DONNELLY
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

DD:ml