

CONSERVATION COMMISSION: Construing House Bill No. 317, known
as the Motor Vehicle Safety Responsibility
MOTOR VEHICLES: Act, passed by the 63rd General Assembly,
as it applies to employees of the Con-
servation Commission.

March 25, 1947



Conservation Commission
Jefferson City, Missouri

Attention: Mr. I. T. Bode, Director

Gentlemen:

This will acknowledge receipt of your request for an
opinion, which reads:

"The matter of this department complying
with the Motor Vehicle Safety Responsi-
bility Act has been given a good deal of
consideration by us. We are in doubt
about the following items: whether or
not the provisions of that Act requiring
operator permits of various types apply
to this department, and, if so, what type
of permit is required.

"In order to understand our situation, I
am offering the following explanations of
the driving of automotive equipment for
this department under several different
classifications.

"(1) We have a small group of employees
to whom are assigned official state owned
automobiles, which are driven by them
throughout the state in the course of their
work. These automobiles are not on the
road day in and day out all day long. Their
use is more or less intermittent.

"(2) We have a group of persons who are not
assigned official automobiles but who occa-
sionally drive one of these cars, if they
are available, in order to save us the cost
of paying mileage on private cars.

"(3) We have a considerable group of official
trucks of various types assigned to the
Forestry Division. These trucks include fire

fighting equipment and operate on our own state owned areas and also on fire protection and forest management work on cooperative areas with forest owners. Naturally, in the fire protection work and in the forest management work these trucks are on the general highways a good part of the time. The balance of the time they are operated on entirely state owned land. Also, during the fire season these trucks are driven by different individuals, depending upon the emergency nature of the situation, so that the trucks are not necessarily assigned to one particular driver.

"(4) We have another group of trucks assigned to the Fisheries Section which are used in connection with our fisheries work at our hatcheries and on state owned areas in hauling supplies for them and also are used in distribution and the making of fisheries surveys. These trucks, of course, are operated on the highways of the state, and while they are usually assigned to a particular driver, there are many times during the year when it is necessary to assign other drivers to them, including men who may have been employed for only a temporary rush period.

"(5) We have a group of official trucks which are operated on the refuge areas. These trucks operate possibly 90 per cent of the time within the refuge areas, but occasionally it is necessary to use them for trips for supplies and other matters of business outside of the refuge. These trucks are not necessarily driven by one particular man at all times.

"I have had an opportunity to review the opinion given the Highway Patrol with regard to their cars, and I believe that most of the driving done by their men falls into a different classification than that outlined above.

"We would like to have your opinion with regard to the application of this Act to our department."

Under date of September 26, 1946, this department rendered an official opinion to Colonel Hugh H. Waggoner, Superintendent, Missouri State Highway Patrol, construing House Bill No. 317, passed by the 63rd General Assembly, and known as the Motor Vehicle Safety Responsibility Act; also, Sections 8445 and 8443, R.S. Mo. 1939, insofar as said provisions apply to State Highway Patrolmen.

It is the writer's understanding that you have a copy of said opinion. Therefore, for the sake of brevity, this opinion shall be considered more in the nature of a supplementary opinion to the one rendered to Colonel Waggoner.

As stated in the foregoing opinion, the type of license required for different employees depends upon the facts in each individual case and the particular type of employment.

In reading the foregoing opinion, we believe it holds that an employee, operating a state-owned motor vehicle that is regularly assigned to said employee and operates said motor vehicle in the course of, or incidental to, his employment, but whose principal occupation is not that of operating said motor vehicle, shall be required to apply for a registered operator's license. However, this does not apply to those employees who only temporarily use said motor vehicle and not in the course of, or as an incident to, their employment.

CONCLUSION

Therefore, it is the opinion of this department that employees of the Conservation Commission coming within numbers (1) and (4) of your request are required to take out a registered operator's license, as provided in Section 8443, Revised Statutes of Missouri 1939, subdivision (f-1) thereof, since such employees regularly operate motor vehicles belonging to said Commission and assigned to them, and said motor vehicles are operated as an incident to said employment, but whose principal occupation is not the operating of such motor vehicles.

Those employees of the Conservation Commission coming within number (2) of your request need not take out any license other than the regular driver's license required of the operator of any motor vehicle, since no motor vehicles are regularly assigned to such employees said motor vehicles are not operated in the course of

or as an incident to their employment and they are not employed primarily to drive said motor vehicles.

It may be that employees coming within your request numbers (3) and (5) should take out a registered operator's license. However, this depends upon the facts in each individual case. If such employees regularly operate motor vehicles belonging to the Conservation Commission in the course of or as an incident to their employment, but whose principal occupation is not the operation of such motor vehicle, then they should have a registered operator's license. This is true even though said motor vehicles are not regularly assigned to such employees, since the statute does not specifically require said motor vehicles be assigned to any one individual.

It is the further opinion of this department, as held in the opinion rendered to Colonel Waggoner, that the provisions of House Bill No. 317, passed by the 63rd General Assembly, are applicable to all employees of the Conservation Commission of the State of Missouri.

Respectfully submitted,

AUBREY R. HAMMETT, Jr.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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