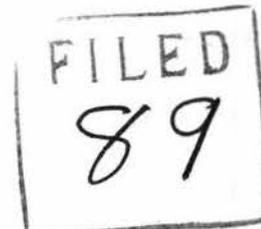


MOTOR VEHICLES:

"Taxicab" owner as defined by city ordinance, not complying with municipal regulatory ordinance, is subject to Motor Vehicle Safety Responsibility Act.

September 28, 1948



Honorable B. C. Tomlinson  
Prosecuting Attorney  
St. Francois County  
Farmington, Missouri

Dear Sir:

Reference is made to your request for an official opinion of this office reading as follows:

"In December 1946, X was the owner and operator of a taxicab business in a city of the third class located in St. Francois County, Missouri and was then licensed by that city to conduct such business. A city ordinance was in force at that time regulating the operation of taxicabs within the corporate limits, defining a taxicab, requiring licensing fees, requiring proper brakes, lights and other equipment, and requiring the drivers of such vehicles to be licensed, and authorizing a police committee of the city council to approve or reject the issuance of a driver's permit, and other provisions.

"Section 12 of said ordinance provides as follows: 'Every owner or operator of a taxicab, as defined in this Ordinance, shall file and deposit with the American State Bank, of Flat River, at the time he obtains his license, and continue the same in full force and effect during the period of his license, cash in the sum of \$1000.00, or bonds in the equivalent of \$1000.00, as he may elect, to the credit of W. A. McGraw Agent as liability insurance, conditioned for the benefit of persons suffering losses,

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or damage to persons or property by reason of the negligent operation of the taxicab, by the licensee or his agents; and it is further provided that every such licensee shall add 50¢ per day, or a total of \$15.00 per month, for each taxicab or car so operated until said sum shall reach an aggregate of \$10,000.00. Such cash deposit or bonds shall be carried on each taxicab operated in the sum of \$1000.00 for injury or death of any one person, and eventually not less than the sum of \$5,000.00 for the injury and death of persons affected by any one accident; and not less than the sum of \$1,000.00 for damage to property in any one accident.'

"X did not make all of the cash deposits with the bank as required by the aforesaid Section 12 of the ordinance, although he did partially comply with said section and the city took no legal action to compel him to make the deposits or to prosecute him for his failure so to do. During the time mentioned above, one of X's taxicabs was being driven by his employee with a passenger therein to the city of Farmington, and after entering the corporate limits of the latter city, the taxicab was caused to collide with an electric light pole injuring the passenger who sued for damages. The suit resulted in a judgment against X who has failed to pay it.

"In view of the regulatory ordinance mentioned above is X immune from the penalties and provisions of 'Motor Vehicle Safety Responsibility Act,' particularly Section 4 thereof which provides for suspension of license for failure to pay a judgment (see Acts of the General Assembly 1945 page 1027 - 1222)?"

Pursuant to our subsequent request, you have supplied us with a copy of Section 1 of the ordinance referred to, wherein "taxicab" is defined in the following language:

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"A taxicab under the terms of this Ordinance, shall be and is hereby declared and defined to be a motor vehicle of not more than five passenger capacity, including the driver, operated as a common carrier of persons and/or property for hire within the City of Flat River, Missouri; which said motor vehicle, the owner, and/or operator thereof, hold themselves out to the general public as being willing to transport persons desiring to use their services from point to point within the City of Flat River, Missouri, or from a point within the City of Flat River to anywhere outside of said City for hire, and which said motor vehicle is not operated over a fixed route between fixed points."

The exemption provision in the Motor Vehicle Safety Responsibility Act is found as Section 8470.15, Mo. R.S.A., reading as follows:

"(b) Notwithstanding anything else herein contained, this Act shall not apply with respect to any motor vehicle owned by the United States, the State of Missouri, or any political subdivision of this State, or any municipality therein, nor shall this Act apply to any common carrier or contract carrier whose operations are subject to the jurisdiction of and are regulated by the Interstate Commerce Commission or the Public Service Commission of Missouri, or by regulatory ordinances of the municipalities served by such common or contract carrier, and which shall have satisfied any applicable requirements concerning bond, insurance or proof of financial responsibility imposed by the regulatory authority having jurisdiction over the carrier's operations."

(Underscoring ours.)

Assuming but not determining the validity of the municipal ordinance in question, it becomes apparent that such operations as are described in said ordinance have the effect of exempting the carrier subject thereto from the provisions of the Motor Vehicle Safety Responsibility Act. This exemption, however, is conditioned upon compliance with, as is said in the quoted statute,

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"any applicable requirements concerning bonds, insurance or proof of financial responsibility." It, therefore, becomes pertinent to determine whether or not the particular taxicab operator referred to in your letter of inquiry had in fact complied with the requirements of the ordinance.

Adverting to your letter of inquiry, we note that the ordinance required the posting of cash or bonds in certain stipulated amounts based upon the period of operation. We further note the statement that the particular taxicab operator, as was said in your letter, "did not make all of the cash deposits with the bank as required by the aforesaid Section 12 of the ordinance." It, therefore, seems that the exemption afforded by Section 8470. 15, Mo. R.S.A. would not extend to such operator.

This view is in line with that expressed by this office in an official opinion under date of July 18, 1947, delivered to Mr. Hinkle Statler, Supervisor, Motor Vehicle Registration Unit, Jefferson City, Missouri, wherein we said in paragraph 2 of the conclusion thereof:

"We are further of the opinion that motor vehicles operated as taxicabs within the meaning of that term as defined in the Public Service Commission Act, but which are exempted therefrom, but the operations of which are subject to regulation by municipal authorities, are also exempted from the provisions of the Motor Vehicle Safety Responsibility Act if such municipal regulations include proof of financial responsibility and such requirement is in fact complied with."

(Underscoring ours.)

#### CONCLUSION

In the premises, we are of the opinion that a taxicab operated in a municipality having a regulatory ordinance containing provisions requiring proof of financial responsibility but with which ordinance compliance has not in fact been made, is subject to the provisions of the Motor Vehicle Safety Responsibility Act.

APPROVED:

Respectfully submitted,

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J. E. TAYLOR  
Attorney General

WILL F. BERRY, JR.  
Assistant Attorney General