

MOTOR CARRIERS: (1) The word "route" as used in statutes relating to motor
PUBLIC SERVICE vehicles denotes the distance and direction of travel and
COMMISSION: direction of travel of the motor carrier from one point to
another and does not therefore denote the entire operating
authority of the said motor carrier. (2) Motor carrier cannot separate its
operating authority into various segments without the consent and permission
of the Public Service Commission. (3) Provision relating to a motor carrier
"operating a route in this state, the total mileage of which is not greater
than twenty miles" would apply only to intrastate operations.

FILED 5

April 1, 1950

Hon. G. H. Bates, Director
Department of Revenue
Jefferson City, Missouri



Dear Mr. Bates:

We have your recent letter requesting an official opinion of this department. Said request raised the following questions:

- "1. Does the word "route" as used in Section 5728, Laws of Missouri, 1943, mean the total mileage of all the carrier's operating authority in Missouri?
- "2. Can a motor carrier, in order to avail itself of these provisos, break its operating authority into segments of various routes of less than ten or twenty miles and license vehicles to operate exclusively thereon?
- "3. Does the proviso relating to mileage limitations in Section 5728, Laws of Mo. 1943, page 865 apply only to intrastate operations?"

Questions embodied in your opinion request will be properly numbered and will be set out at the beginning of the discussion of their particular subject.

I.

Does the word "route" as used in Section 5728, Laws of Mo. 1943, mean the total mileage of all the carrier's operating authority in Missouri?

The primary rule of construction of statutes is to ascertain and declare the intention of the Legislature, and carry such intention into effect to the fullest degree. The rule in this regard was stated and applied by the Supreme Court of Missouri in the case of American Bridge Co. v. Smith, 179 S.W. (2d) 12, l.c. 15, as follows:

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"The primary rule of construction of statutes is to ascertain the lawmakers' intent, from the words used if possible; and to put upon the language of the Legislature, honestly and faithfully, its plain and rational meaning and to promote its object, * * * * *"

It is presumed that the Legislature intends to import the general and popular accepted meaning to any and all words used in the statutes unless a specific definition for the said word is provided within the statute concerned. The rule in this regard is stated in 50 Am. Jur., Statutes, Section 238, page 228, as follows:

"* * * * it is a general rule of statutory construction that words of a statute will be interpreted in their ordinary acceptation and significance and the meaning commonly attributed to them. The rule is that such words are to be given their natural, received, popular, approved and recognized meaning. The intention of the legislature to use statutory phraseology in such manner has been presumed."

To the same effect is the above quoted rule, see State ex rel. Gass v. Gordon, 266 Mo. 394, 181 S.W. 1016, and Vable v. McCune, 26 Mo. 371, 72 Am. Dec. 214.

The word "route" is defined in Webster's Dictionary, Fifth Edition as "the course or way which is or is to be traveled." Substantially the same definition was applied to the word "route" in the case of Virginia Stage Lines v. Commonwealth, 45 S.E. (2d) 318, 1.c. 323, wherein the court held as follows:

"A 'route' is a direction of travel from one place to another. * * * * *"

In the case of Consolidated Freightways v. United States, C.C.A. N.D., 136 F (2d) 921, 1.c. 923 the court in discussing the significance of the word "route" as used in statutes providing for the regulation of motor carriers said:

"'Routes' as used in statutes regulating motor carriers signifies highways where motor vehicles operate and not areas between terminal points. * * * * *"

Inasmuch as the aforementioned authorities define the word "route" as being highways upon which motor vehicles operate and as a direction of travel from one point to another it seems clear that the word "route" as used in Section 5728, Laws of Missouri, 1943, page 865 means the distance and direction of

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travel of the motor carrier from one point to another and does not therefore mean the entire operating authority of the said motor carrier operating in the State of Missouri.

II.

Can a motor carrier, in order to avail itself of these provisos, break its operating authority into segments of various routes of less than ten or twenty miles and license vehicles to operate exclusively thereon?

Section 5723, Laws of Missouri 1935, page 321, (Sec. 5723 R.S. Mo. 1939, sub-section (c) provides as follows:

"All laws relating to the powers, duties, authority and jurisdiction of the public service commission over common carriers are hereby made applicable to all such motor carriers, except as herein otherwise specifically provided."

Section 1, Laws of Mo. 1947, Vol. 2, page 336 (Sec. 5630 Mo. R.S.A.) is a provision relating to the powers, duties authority and jurisdiction of the Public Service Commission over common carriers and provides in part as follows:

"* * * * The commission shall have power, after hearing, to issue such certificate, as prayed for, or to refuse to issue the same, or to issue it for the construction of a portion only of the contemplated railroad or street railroad or extension thereof or for the partial exercise only of said right or privilege, and may attach to the exercise of the rights granted by the certificate such terms and conditions as in its judgment the public convenience and necessity may require. * * * * *"

Reading and construing the two above quoted provisions together, it seems that the mode and manner in which the rights granted by the certificate of convenience and necessity are exercised is under the power, authority and jurisdiction of the Public Service Commission. To hold otherwise would be to strip the said Public Service Commission of any and all means it now has in its hands to enforce the law in respect to those agencies which are under the control and regulation of the said commission.

In the case of State ex rel Pitcairn et al v. Public Service Commission, 232 Mo. App. 755, 111 S.W. (2d) 982, the court

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in discussing the powers and authority of the Public Service Commission said, l.c. 986:

"The purpose of the Legislature was to promote the welfare of the state by regulating common carriers by motor vehicle. * * * * * It authorized the Public Service Commission to administer the law as its agent. Lusk v. Atkinson, 268 Mo. 109, 186 S.W. 703. It thereby vested the commission with certain positive, powers, expressly conferred and also vested it with all others necessary and proper to carry out fully and effectually all such powers so delegated, and necessary to give full effect to the act. * * * * *"

Hence it must follow that the terms and conditions, as prescribed by the commission, under which the rights granted by the certificate may be exercised are binding upon the recipient of the certificate and cannot be altered or amended without the permission and authorization of the Commission.

It is, therefore, the opinion of this department that a motor carrier cannot separate its operating authority, as established by the commission, into segments of various routes for the purpose of creating and maintaining the said various routes as distinct and separate routes for the purpose of having his vehicles licensed as operating exclusively on the shortened routes.

III.

Does the proviso relating to mileage limitations in Section 5728, Laws of Missouri 1943, page 865 apply only to intrastate operation?

The provision contained in Section 5728, Laws of Missouri 1943, page 865 is as follows:

"Provided further, that where a motor carrier is operating a route in this State, the total mileage of which is not greater than twenty miles, the license fee shall be one-half of the license fee hereinafter set out."

The above quoted provision must be construed and applied in compliance with the intent of the Legislature from the words and phrases used in the said provision and in the sense that

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the legislature intended the words and phrases to be used.
See American Bridge Co. v. Smith, Supra.

Section 655, R. S. Mo. A., 1939 provides in part as follows:

"The construction of all statutes of this State shall be by the following additional rules, unless such construction be plainly repugnant to the intent of the legislature, or of the context of the same statute:
First, words and phrases shall be taken in their plain or ordinary and usual sense,
* * * * ."

To the same effect as the above quoted provision, see 50 Am. Jur. Statutes, Section 238, page 228; State ex rel Gass v. Gordon, 266 Mo. 394, 181 S.W. 1016; and Vable v. McCune, 26 Mo. 371, 72 Am. Dec. 214.

In view of the foregoing authorities and statute, and the fact that the legislature has deemed it necessary to provide separately in another provision of Section 5728, Laws of Mo. 1943, page 865, for the license fee of motor carriers not operating wholly within the confines and boundaries of the state, it must follow that the legislature intended the afore quoted provision to apply only to intrastate operations.

CONCLUSION

It is therefore, the opinion of this department that the word "route" as used in Section 5728, Laws of Missouri 1943, page 65, means the distance and direction of motor carrier from one point to another and does not therefore mean, nor is it synonymous with entire operating authority of the said motor carrier operating in the State of Missouri under a permit from the public Service Commission. It is further the opinion of this department that a motor carrier cannot separate his operating authority as established by the Commission into various routes as distinct and separate routes for the purpose of having his vehicles licensed as operating exclusively on the shortened routes.

It is also the opinion of this department that the mileage provision contained in Section 5728, Laws of Missouri, 1943, page 865, applies only to intrastate operations.

Respectfully submitted

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APPROVED:

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