

AUTOMOBILES: IN RE: The members of a partnership may operate cars  
LICENSES: owned by them without taking out a registered  
operator's license.

October 4, 1946



Honorable Marshall Craig  
Prosecuting Attorney,  
Charleston, Missouri

Dear Mr. Craig:

This will acknowledge receipt of your letter of recent date requesting an opinion of this department as follows:

"The State highway patrol has a problem in this section with reference to operator's licenses. A typical case is the one at Wyatt concerning the Wyatt Alfalfa Mill. The patrolman felt that the members of the partnership who operated trucks for the mill should have an operator's license. He talked to them about it and they wrote the Motor vehicle department. The letter and the answer are as follows-in part:

"Sept. 4, 1946.

\* \* \*Wyatt Alfalfa Mill consists of four partners, each with a one fourth interest. We dehydrate alfalfa meal, which is made from green hay hauled from fields to the mill. The federal Government calls this hauling and field work 'farm operations.' We have a pick up truck that is used to supervise this work between mill and fields. Would all four partners have to have operators license to drive any of these trucks? None of these trucks are for hire, and are used for our sole use.

"We have a pick up truck owned by Mildred R. Smith, U. G. Raffety, and Hunter Raffety, sister and two brothers. It is a farm truck used to haul men and small equipment used in our farm operations only. The truck has M. U. G. on the door for the

three, and the ownership is made out - Mildred R. Smith, or U. G. Raffety, or George Hunter Raffety. Would we have to all three have operator's licenses to drive this truck."

"(Answer from the department of Revenue)

"Sept. 10, 1946

"In reply to your letter of September 4, we wish to advise that Missouri Operator's license are not necessary if the vehicle in question is not for hire.

Hinkle Statler  
By L. N. Alsbrook'

"We would like an opinion from your office concerning this problem. I believe that the parties are correct in saying that the trucks are not for hire and I am sure that they want to comply with the law. As I understand their situation they purchase alfalfa from farmers and it is hauled to the mill. I don't know whether they buy it in the field or at the mill, but I am sure that their trucks are not hired out and operated by others than their employees or themselves. I believe that it has been ruled that members of a corporation who operate trucks of the corporation must have operator's license. the question is whether the same rule applies to partners in a partnership.

"We are not asking your office to make a contrary ruling to the motor vehicle department, but we want to make sure that we have the correct ruling.

"An opinion on this question would be greatly appreciated."

Section 8372, House Bill 132, Laws 1945, page \_\_\_ reads, in part, as follows:

"(a) Every person desiring to operate a motor vehicle as a chauffeur shall file in the office of the commissioner a statement containing his name, age, address and other information that the Commissioner of Motor Vehicles may deem necessary, on a blank to be furnished for that purpose by the commissioner."

Section 8373, R. S. Mo. 1939, reads, in part, as follows:

"Registration of registered operators

"(a) Every person desiring to operate a motor vehicle as a registered operator shall file in the office of the commissioner a statement containing his name, age and address, and the trade name and motive power of the motor vehicle he is competent to operate, on a blank to be furnished by the commissioner for that purpose, which shall be indorsed by two citizens of this state who are registered motor vehicle owners, who shall certify to the correctness of the facts stated in such application and the good character of such applicant."

The word "chauffeur" is defined in Section 8367, Senate Bill #360, 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.\* \* \*"

The word "registered operator" is defined in Section 8367, supra, as follows:

"'Registered operator.' An operator other than a chauffeur who regularly operates a motor vehicle of another person in the course of, or as an incident to his employment,

but whose principal occupation is not the operating of such motor vehicle.\* \* \*

From the above definitions it is clear that if the motor vehicle is not carrying passengers or property for hire the operator is not required to have a chauffeur's license. In your letter you state that none of the trucks of the partnership in question are used for hire, but all of them are used solely in the business of the partnership, this business not being a business for the purpose of carrying passengers or property for hire.

In order to be a "registered operator" a person must, among other things, (1) be operating a motor vehicle of another person, (2) must be an employee of that other person. From the facts stated in your letter, we think that these two requirements are not to be found in the case of the partnership which runs the Wyatt Alfalfa Mill. From those facts we gather that the partners themselves are operating vehicles and they own them. They are, therefore, not operating a motor vehicle of another person. In the second place, they are not employees but are themselves the owners of the business.

The Driver's License Division of the Department of Revenue has, in the past, ruled that members of a partnership who are driving motor vehicles owned by the partnership in partnership business are required, for this purpose, to obtain only the ordinary operator's license, which is more commonly known as a "driver's license". We think that the "operator's license", to which you refer in your letter, is the "registered operator's license", and we have so considered it in writing this opinion.

#### CONCLUSION

It is, therefore, the opinion of this department that, under the facts set out in your letter, the partners of the Wyatt Alfalfa Mill are not required to obtain registered operator's licenses in order to lawfully operate the trucks of the partnership which are being used solely in the operation of the business.

Respectfully submitted,

APPROVED:

SMITH N. CROWE, JR.  
Assistant Attorney General

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Attorney General

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