

MOTOR VEHICLE SAFETY RESPONSIBILITY : Taxicabs licensed and
ACT. : operating in municipalities
: as common carriers which
: are not regulated by or-
: dinances, are subject to
: the provisions of the
: Motor Vehicle Safety
September 16, 1947: Responsibility Act.
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Honorable Owen G. Jackson
Superintendent
Division of Insurance
Jefferson City, Missouri

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Attention: Honorable Ralph C. Lashly

Dear Mr. Jackson:

This opinion is in response to your letter recently received, which letter is as follows:

"I have a copy of your opinion to Mr. Hinkle Statler, Motor Vehicle Registration Unit, construing the position of taxicabs under Section 8470.15 Mo. R.S.A.

"Would you please advise this Division whether taxicabs, exempt from the provisions of the Public Service Commission Act and licensed to operate within municipalities having no regulatory ordinance requiring bond, or insurance, are subject to the provisions of the Motor Vehicle Safety Responsibility Act."

Neither "common carriers" nor "taxicabs" are defined in the MOTOR VEHICLE SAFETY RESPONSIBILITY ACT.

According to the holding in the case of State ex rel. Anderson vs. Witthaus, 102 S.W. (2d) 99, 1.c. 101, cited and quoted in the former opinion supplied to Mr. Hinkle Statler by this Department, that case does point out and defines what constitutes a "common carrier". We refer you to that case as cited and quoted on page 2 of the former opinion from this Department.

Sub-section (d) of Section 5720 of Article 8, Chapter 35, I.C. 253, Volume 15, Mo. R.S.A. of the PUBLIC SERVICE COMMISSION ACT defines the term "taxicab" as follows:

"(d) The term 'taxicab' when used in this article, shall mean every motor vehicle designated and/or constructed to accommodate and transport passengers, not more than five in number, exclusive of the driver, and fitted with taximeters and/or using or having some other device, method or system, to indicate and determine the passenger fare charged for distance traveled, and the principal operations of which taxicabs are confined to the area within the corporate limits of cities of the state and suburban territory as herein defined."

Section 5721 of said Article, Chapter and Act exempts taxicabs from the terms of said PUBLIC SERVICE COMMISSION ACT. For the sake of brevity we do not deem it necessary to quote said Section 5721, but respectfully call attention to the Section. However, said Section 5721 does state, as a part thereof, the following:

"* * * No provision of this article shall be so construed as to deprive any county or municipality within this state of the right of police control over the use of its public highways, or the state highway commission of the right of police control over the use of state highways.
* * *"

Your specific question to be considered is whether if taxicabs are exempt from the terms of the PUBLIC SERVICE COMMISSION ACT, and if taxicabs are operated and licensed in municipalities having no regulatory ordinance relating to taxicabs requiring bond, insurance or proof of financial responsibility imposed by such regulatory authority having jurisdiction over the carrier's operations, they are subject

to the provisions of the Motor Vehicle Safety Responsibility Act.

We think the answer to the solution of the question lies in sub-section (b), pocket edition to Mo. R.S.A., page 119 of Volume 18, Section 8470.15, Article 5, Chapter 45, also found as Section 4, Laws of Missouri, 1945, 1207, 1.c. 1210, 1211, of the MOTOR VEHICLE SAFETY RESPONSIBILITY ACT.

The former opinion of this Department to Mr. Statler on page 1, sets out and quotes in full said sub-section (b) of said Section 8470.15.

The only basis upon which taxicabs, as will be observed by reading sub-section (b) of said Section 8470.15 and also of said Section 4, Laws of Missouri, 1945, 1.c. 1210, 1211, are exempted from the terms of the "MOTOR VEHICLE SAFETY RESPONSIBILITY ACT" is that taxicabs are left thereby to be governed by regulatory ordinances of municipalities served by such common carriers, if the facts show they are common carriers, and which shall have satisfied such municipalities, in obedience to such ordinance, or ordinances, that they have provided bond, insurance, or proof of financial responsibility imposed by such ordinance, or ordinances.

This brings us at once to a further consideration of said Section 5721 of the PUBLIC SERVICE COMMISSION ACT whereby said Section exempts taxicabs from the provisions of said Act, and further states, among other provisions, that county or municipalities within this State shall not be deprived by said Act of the right of police control over the use of its public highways, etc.

Taxicabs being exempt from the terms of the PUBLIC SERVICE COMMISSION ACT by said Section 5721, leaves them subject only, according to the terms of said sub-section (b), Section 4, Laws of Missouri, 1945, 1.c. 1210, 1211, and Section 8470.15, Mo. R.S.A., pocket edition, Volume 18, page 119, to municipal ordinance regulations, and if not regulated by municipal ordinances in the particulars named in said sub-section (b), supra, they are subject to the terms of the MOTOR VEHICLE SAFETY RESPONSIBILITY ACT. So of course the question would resolve into this:

We have in Section 5720 of the PUBLIC SERVICE COMMISSION ACT, supra, a definition of "taxicab".

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We have a decision and definition in the Anderson case, quoted in the former opinion of this Department, that taxicabs are common carriers.

We have the question in your letter whether taxicabs operating within municipalities having no regulatory ordinance requiring bond, insurance, and which have not made proof of financial responsibility, are subject to the terms of the MOTOR VEHICLE SAFETY RESPONSIBILITY ACT. We think there is but one answer to this question under the statutes quoted and under the conditions you submit, and under the holding of the former opinion of this Department to Mr. Statler, that taxicabs are, under such conditions, subject to the terms and provisions of the MOTOR VEHICLE SAFETY RESPONSIBILITY ACT.

CONCLUSION.

It is, therefore, the opinion of this Department that taxicabs licensed by and operating in municipalities of this State and their respective suburban territories, as common carriers, if the facts show they are common carriers, and which municipalities do not have in force regulatory ordinances supervising taxicabs by requiring bonds, insurance or proof of financial responsibility, are subject to the provisions of the MOTOR VEHICLE SAFETY RESPONSIBILITY ACT.

Respectfully submitted,

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Assistant Attorney General

APPROVED:

J. E. TAYLOR
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