

MOTOR VEHICLES: Relating to licenses for local commercial motor vehicles.

January 14, 1948

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Col. Hugh H. Waggoner, Superintendent
Missouri State Highway Patrol
Jefferson City, Missouri

Dear Sir:

This is in reply to your letter of recent date wherein you request an opinion from this department on the following statement of facts and question:

"The Service Transport Sanitary Milk Producers, Incorporated is composed of a group of farmers and a company in St. Louis which operates under the name of Sanitary Milk Producers. This company, the Sanitary Milk Producers, is backing the Service Transport, a group of farmers who are incorporated, so they may procure milk from the farmers for the operation of their plant. The group hires small trucks to pick up the milk on the farm and haul it to Oakwood, Missouri, where it is transferred to semi-trailer trucks owned by the corporation and hauled to the plant in St. Louis, Missouri. The trucks are titled in both names of the corporation, the Service Transport and Sanitary Milk Producers.

"We ask that you give us an opinion as to whether or not the corporation can legally operate either the semi-trailer trucks or the small trucks on a local license."

We note from your request and file attached thereto that there are two questions submitted, namely: (a) may the semi-trailer trucks titled to Service Transport Sanitary Milk Producers and Sanitary Milk Producers operate under what is termed a "local commercial motor vehicle" license; (b) may the small trucks, hired by the Service Transport Sanitary Milk Producers, Inc., to pick up milk on farms and haul it to Oakwood, operate under a local commercial motor vehicle license.

From a reading of your letter, it might appear that the Service Transport Sanitary Milk Producers is incorporated. We have made inquiry at the office of the Secretary of State and have been informed that there is no record in that office of the incorporation of that concern. However, in your letter you state that this concern is composed of a group of farmers who procure milk from farmers in a trade territory for transportation and sale to the St. Louis company, the Sanitary Milk Producers. We do find, however, that the Sanitary Milk Producers is a corporation and from a statement by you to the department, it is this corporation which owns the semi-trailer trucks referred to in your letter.

If these vehicles are operated as "local commercial motor vehicles," then the license fee under Section 8369, Laws of Missouri, 1945, page 1197, would be one-third of the fee required for commercial motor vehicles, except that in any event, the minimum fee would be \$10.00.

We think the answer to your question rests entirely on the construction of statutes. The term "local commercial motor vehicle" is defined under the statutes as follows, Section 8369, Laws of Missouri, 1945, page 1199:

"The term 'local commercial motor vehicle' includes every 'commercial motor vehicle' as defined in Section 8367, of this act, while operating within this state and used for the transportation of persons or property:

"1. Wholly within any municipality or urban community, or

"2. Wholly within any municipality or urban community and a zone extending 25 air miles from the boundaries of any municipality or urban community, or contiguous municipality or urban community, or

"3. In making hauls not exceeding 25 miles in length, or

"4. When controlled or operated by any person or persons principally engaged in farming when used exclusively in the transportation of agricultural products or livestock to or from a farm or farms, or in the transportation of supplies to or from a farm or farms."

The term "commercial motor vehicle" is defined in Section 8367, Laws of Missouri, 1945, page 1195:

" * * * 'Commercial motor vehicle.' A motor vehicle designed or regularly used for carrying (a) freight and merchandise, or (b) more than eight passengers. * * * "

Since the lawmakers have provided for a reduction in the license fee for local commercial motor vehicles, then we think this provision would come within the classification of a partial exemption from the commercial motor vehicle license rate. Since it is in the nature of an exemption from a license tax, then we think the rule that a person to be within an exemption class must show clearly that he is within that class. Applying that principle here, the trucking concerns must show that they are transporting property (1) wholly within a municipality or urban community, or (2) wholly within any municipality or urban community or a zone extending 25 air miles from the boundaries of any municipality or urban community, or contiguous municipality or urban community, or (3) making hauls not exceeding 25 miles in length, or (4) principally engaged in farming when used exclusively in the transportation of agricultural produce or livestock to or from a farm or farms or in the transportation of supplies to or from a farm or farms.

In your request and the enclosures attached thereto, you do not state how far the small trucks travel to pick up the milk and haul it to Oakwood, Missouri, where it is transferred to the semi-trailer, and then haul it to the plant in St. Louis. Of course, if any of these hauls come within the first three classifications above named, whether by the small trucks or by the semi-trailer, then they would come under the classification of a local commercial motor vehicle.

As stated above, the semi-trailer trucks are owned by the Sanitary Milk Producers, a corporation, and it appears from your letter that these trucks are titled in both the name of the corporation and the Service Transport Sanitary Milk Producers. Under this set of facts, we do not believe that the owners of the semi-trailer trucks could qualify as local commercial motor vehicle operators under subsection 4, supra, because it could not be said that the Sanitary Milk Producers are principally engaged in farming. In order to obtain the benefits of this, what may be termed a partial exemption from the license rate, the operators of such vehicles must show clearly that they come within that classification.

As to the small trucks which are hired and used to pick up the milk on the farm and haul it to Oakwood, and which do not come within the first, second or third classifications of Section 8369, we think the ownership of these small trucks would determine whether or not they come within this classification. If these small trucks are controlled and operated by farmers who are principally engaged in farming, and if they are used exclusively in the transportation of dairy products, which are agricultural products, to or from the farm, then they would come within the partial exempted classification as a local commercial motor vehicle.

CONCLUSION

From the foregoing, it is the opinion of this department that the semi-trailer trucks owned and operated by the Sanitary Milk Producers, a corporation, and titled in both the names of Service Transport Sanitary Milk Producers and Sanitary Milk Producers, would not come within the classification of local commercial motor vehicles under Section 8369, Laws of Missouri, 1945, page 1199, because they are not controlled and operated by persons principally engaged in farming.

As to the small trucks used to pick up milk on the farm and transport it to Oakwood, if the activities of these trucks come within subdivisions 1, 2 and 3 of said Section 8369, then of course they would be entitled to the local commercial rate. We are further of the opinion that if these small trucks are operated and controlled by persons principally engaged in farming and are used exclusively in the transportation of agricultural products to or from the farm that these trucks would come within the classification of local commercial motor vehicles.

Respectfully submitted,

TYRE W. BURTON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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