

ANSWERS

COMMERCIAL
MOTOR VEHICLES:

(1) That a farmer operating his truck on a local commercial motor vehicle license may travel beyond the twenty-five mile limit when he has no load on his truck and is on a pleasure trip. (2) That a farmer operating on a local commercial motor vehicle license may not make a "for hire haul." (3) That a man, not a farmer, operating on a local commercial motor vehicle license, may not go beyond the twenty-five mile limit on a pleasure trip. (4) That a person, not a farmer, operating on a local commercial motor vehicle license, may not legally move from job to job in excess of the twenty-five mile limit.

JOHN M. DALTON
XXXXXXXXXX

February 20, 1953

J. C. JOHNSON
XXXXXXXXXX

Honorable D. W. Sherman, Jr.
Prosecuting Attorney
Lafayette County
Courthouse
Lexington, Missouri

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Dear Sir:

This department is in receipt of your recent request for an official opinion. You thus state your request:

"I should like very much your opinion and interpretation of Section 301.010 Paragraph (10) which defines a local commercial motor vehicle, as follows, to wit;

"Local commercial motor vehicle," a commercial motor vehicle whose operations are confined solely to a municipality and that area extending not more than twenty-five miles therefrom; or a commercial motor vehicle whose property carrying operations are confined solely to the transportation of property owned by any person who is the owner or operator of such vehicle, to or from a farm owned by such person or under his control by virtue of a landlord and tenant lease; provided that any such property transported to any such farm is for use in the operation of such farm;

"Specifically in view of this section I should like to know whether 1. a farmer may operate his truck on a local license and travel beyond the 25 mile limit as

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a farmer, and when he has no load on said truck and it is a pleasure trip?

2. I should like to know further in view of this section whether a farmer may make a 'for hire haul' within the 25 mile limit and operate on a farm local license as defined?

3. Further may a man operate on a local license as defined in Paragraph (10) Section 310.010, 'not a farmer', go beyond the 25 mile limit on a pleasure trip?

4. May a man on said local license 'not a farmer' move from one job to another in excess of the 25 mile limit and still be not guilty of violation to aforesaid section."

It will be noted that paragraph 10 of Section 301.010, Cumulative Supplement 1951, subparagraph 9, Laws of Missouri, 1951, page 696, gives two separate and distinct definitions of a local commercial motor vehicle. One of these definitions is that such a vehicle is one whose operations are confined solely to a municipality and that area extending not more than twenty-five miles therefrom. The other definition is that a local commercial motor vehicle is one whose property carrying operations are confined solely to the transportation of property owned by any person who is the owner or operator of such vehicle, to or from a farm owned by such person or under his control by virtue of a landlord and tenant lease, provided that any such property transported to any such farm is for use in the operation of such farm.

It is obvious that there are sharp differences between the powers of owners of motor vehicles operating on a local commercial motor vehicle license depending upon which of the two above definitions such owners come under. These we shall indicate as we proceed.

Your first question is: May a farmer operate his truck on a local license (local commercial motor vehicle license) and travel beyond the twenty-five mile limit as a farmer, and when he has no load on said truck and it is a pleasure trip?

We believe that he may do so. It is clear that a farmer would come under the second definition given above in paragraph 10. In that definition nothing whatever is said about a twenty-five mile limit, and since the twenty-five mile limit was expressly stated in the first definition it must have been the intention of

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the legislature that no limit should apply to a farmer. Furthermore, it will be noted that the second definition places a restriction only upon the "property carrying operations" of such farmer vehicles.

Since no mileage limits are imposed upon a farmer operator, and since, while on a pleasure trip he would not be transporting "property" we hold that the answer to your first question is, as we stated above, in the affirmative.

Your second question is: May a farmer make a "for hire haul" within the twenty-five mile limit and operate on a farm local license (local commercial vehicle license) as defined?

We believe it to be clear that he may not do so. As we stated above, we do not believe that the twenty-five mile limit comes into consideration in the case of a farmer operator, but the second definition of paragraph 10 clearly states what a farmer who obtains a local commercial motor vehicle license, under the second definition, may (and by implication may not) do. His property carrying operations are confined solely to the transportation of property "owned by a person who is the owner or operator of such vehicle, to or from a farm owned by such person or under his control by virtue of a landlord and tenant lease, provided that any such property transported to any such farm is for use in the operation of such farm."

Your third question is: May a man, not a farmer, operate on a local license (local commercial motor vehicle license) and go beyond the twenty-five mile limit on a pleasure trip?

We believe that he may not do so. Such a person, "not a farmer," would come under the first definition given in paragraph 10, supra, and that definition states, in reference to a local commercial motor vehicle; that it is one "whose operations are confined solely to a municipality and that area extending not more than twenty-five miles therefrom."

It will be noted that this definition limits operations solely to a municipality and a twenty-five mile area extending therefrom.

It will also be noted that the limitation is to "operations" and not, as in the second or farmer definition, to "property carrying operations."

We believe that it was the intention of the legislature to strictly limit the operation of a motor vehicle operating under a

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local commercial motor vehicle license, which vehicle comes under the first definition given in paragraph 10, supra, to a municipality and an area not more than twenty-five miles therefrom.

Your fourth question is: May a man, not a farmer, on said local license (local commercial motor vehicle license) go from one job to another in excess of the twenty-five mile limit and still not be guilty of a violation of the section?

We do not believe that he may do so. What is now paragraph 10 of Section 301.010, Cumulative Supplement, 1951; paragraph 9, Laws of Missouri, 1951, page 699, supra, appears in the Revised Statutes of Missouri, 1949, as paragraph 8 of Section 301.010. That paragraph reads:

"'Local commercial motor vehicle,' includes every commercial motor vehicle as defined in paragraph (1) of this section while operating within this state and used for the transportation of persons or property

"(a) Wholly within any municipality or urban community:

"(b) Wholly within any municipality or urban community and a zone extending twenty-five air miles from the boundaries of any municipality or urban community, or contiguous municipality or urban community; or

"(c) In making hauls not exceeding twenty-five miles in length; or

"(d) When controlled or operated by any person 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;"

(Emphasis ours.)

Local commercial motor vehicle includes every commercial motor vehicle as defined in the first paragraph of this section while operating in this state and used for the transportation of

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persons or property "(a) wholly within any municipality or urban community * * * *."

It will be noted that the reference there is to "any" municipality or urban community. As paragraph 10 now reads, since its amendment, the word "any" is changed to "a".

We believe that prior to its amendment, when paragraph 10 (then paragraph 8 of Section 301.010, RSMo 1949), used the word "any" in regard to a municipality or urban community, that it might have been held that a person, not a farmer, holding a local commercial motor vehicle license, could move from job to job beyond the twenty-five mile limit. But we further believe that when the legislature changed "any" to "a" it did so for some purpose, and that such purpose could only have been to prevent precisely what your fourth question contemplates, and to confine a person who comes under the first definition of paragraph 10, supra, to one municipality and the twenty-five mile area radiating therefrom.

We feel that there are also numerous practical reasons why this should be so, and why this must have been the intention of the legislature in making the change in wording noted above. A local commercial motor vehicle license is much less expensive than a state-wide commercial license. When the legislature termed such a license as "local" we believe that it must have meant what it said, namely, local, and limited.

It must also be apparent that if a person coming under the first definition of paragraph 10, supra, could move from job to job and from one location to another location, he could operate throughout the state and so could, on a low price license, do, practically speaking, what he could properly and legally do only under a much more costly license, and so defeat the legislative intent and place himself in competition with other haulers who had complied with the law by securing the more costly and extensive operating license.

CONCLUSION

It is the opinion of this department:

- (1) That a farmer operating his truck on a local commercial motor vehicle license may travel beyond the twenty-five mile limit when he has no load on his truck and is on a pleasure trip.
- (2) That a farmer operating on a local commercial motor

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vehicle license may not make a "for hire haul."

(3) That a man, not a farmer, operating on a local commercial motor vehicle license, may not go beyond the twenty-five mile limit on a pleasure trip.

(4) That a person, not a farmer, operating on a local commercial motor vehicle license, may not legally move from job to job in excess of the twenty-five mile limit.

The foregoing opinion which I hereby approve was prepared by my assistant, Mr. Hugh P. Williamson.

Very truly yours,

JOHN M. DALTON
Attorney General

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