

DEFINITIONS:

MOTOR VEHICLE REGIS-
TRATION:

"Seating capacity" as used in Section 301.060, V.A.M.S., 1952, means number of persons who may be actually seated in a commercial vehicle, and does not limit number of passengers who may be carried.



April 9, 1953

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

Dear Colonel Waggoner:

In your letter of March 31, 1953, you requested an official opinion of this office on the following question:

"In connection with the enforcement of the provisions of Section 301.060 of the Motor Vehicle Laws, as listed in the supplement covering those laws passed in 1951, there is a question as to the interpretation which should be placed on paragraphs four, five and six.

"A member of this organization recently arrested a driver of a bus who had paid a fee of \$290 on the vehicle which had a seating capacity of twenty-nine passengers. This is the proper fee for this number of passengers as set out in paragraph four of Section 301.060. At the time the driver was arrested, he had twenty-nine passengers seated and nine additional passengers standing in the aisle. The patrolman who made the arrest has charged the operator with exceeding the authority for which he is licensed.

"In placing an interpretation upon the wording of this paragraph, the question arises as to whether a bus licensed on the basis of a certain seating capacity may haul an unlimited number of additional passengers who are required to stand. In ruling on this question your attention is directed to rule number thirty

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of the present regulations of the Missouri Bus and Truck Department. This rule does not forbid passengers from standing in the aisles and only requires that standees remain back of a certain area in order that they not interfere with the driver."

The portion of Section 301.060, V.A.M.S. 1952, about which you inquire, is quoted:

"The annual registration fee shall be as follows:

"4. For passenger-carrying commercial motor vehicles (not including passenger carrying local commercial motor vehicles, school buses or local transit buses) having a seating capacity of:

10 passengers or less	\$100.00
11 to 18 passengers	180.00
19 to 25 passengers	250.00
26 to 29 passengers	290.00
30 to 33 passengers	330.00
34 to 37 passengers	370.00
38 to 41 passengers	410.00
42 to 45 passengers	450.00

"5. For passenger-carrying local commercial, motor vehicles having a seating capacity of:

10 passengers or less	\$ 50.00
11 to 18 passengers	90.00
19 to 25 passengers	125.00
26 to 29 passengers	145.00
30 to 33 passengers	165.00
34 to 37 passengers	185.00
38 to 41 passengers	205.00
42 to 45 passengers	225.00

"6. For local transit buses having a seating capacity of:

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40 passengers or less	\$ 25.00
41 to 45 passengers	35.00
Over 45 passengers	50.00

In construing a statute and determining the meaning of words and phrases used therein, we are aided by Section 1.090, RSMo 1949, which states as follows:

"1.090. Words and phrases, how construed.--Words and phrases shall be taken in their plain or ordinary and usual sense, but technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import."

Since "seating capacity" does not have "a peculiar and appropriate meaning in law" we must determine what the plain and ordinary meaning is.

Webster's New International Dictionary, Second Edition, Unabridged, defines "seating" as follows:

"adj. That seats or provides seats; as seating arrangements or accommodation."

The same authority gives this definition of "capacity":

"b. Extent of room or space; content; specif., cubic content; * * *."

These definitions plainly indicate that "seating capacity" means the number of persons who can be seated in a vehicle rather than the number who can be loaded into the vehicle. In the case of Reynolds vs. General Electric Co., 141 Fed. 551, 554, "seating capacity" is defined as follows:

"The seating capacity of a hall is its size, its ability to permit people to be seated within it."

In further considering the intention of the Legislature, it must be considered that having determined commercial passenger carrying motor vehicles should be charged

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a registration fee according to their size, the Legislature was in need of a criterion or standard by which they could place different sized vehicles into different categories. If "seating capacity" is construed to mean the number of persons who can be seated in a commercial motor vehicle, the category into which it falls can be readily determined by casual inspection. If, on the other hand, "seating capacity" is construed to mean "carrying capacity", it would be most difficult to determine how many persons any particular commercial motor vehicle might carry; the determination of which would involve considerable mathematical calculation. In view of this, it does not seem likely that the Legislature intended to strain the construction of "seating capacity" to mean the number of persons who can be loaded into a commercial motor vehicle.

The registration fee for the vehicle, in question, based upon its size as measured by the yardstick of "seating capacity", had been paid. The statute regulating the registration does not attempt to regulate the number of passengers who may actually be carried on board. Further, there appears no other statute which does limit the number of persons who may be carried on such vehicle.

CONCLUSION.

It is, therefore, the opinion of this office that "seating capacity" as used in Section 301.060, subsections 4, 5 and 6, V.A.M.S., 1952, means the number of passengers who may be seated within the commercial motor vehicles mentioned, and is for the purpose of determining registration fee of such vehicles; it does not limit the number of persons who may actually be carried on such vehicles.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Paul McGhee.

Yours very truly,

JOHN M. DALTON
Attorney General

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