

License Law—Application to Automobiles.

Automobiles, though run for hire, are not chargeable with payment of the license required by Section 4073 of Political Code.

Helena, Montana, August 15th, 1906.

Hon. F. J. Wagner, Chairman Board of County Commissioners, Helena, Montana:

Dear Sir—Your letter of the 11th instant requesting opinion from this office has been received and duly considered. The question you present is as follows:

“Are owners of Automobiles, that are run for hire or profit, and who charge the same fare as that charged by the Cab Companies, liable for the same license required of the Cab Companies?”

The portion of section 4073 of the Political Code which authorizes the collection of a license upon cabs, etc., reads as follows:

“For all omnibuses, carriages and express wagons that are run for hire or profit, drawn by one horse, shall pay one and fifty-hundredths dollars per quarter; and for each additional horse used therewith, two and fifty-hundredths per quarter.”

This is the only provision of our law authorizing the collection of such a license at all, and from the language thereof, it is quite clear that the automobiles are not included, and that there was no intention on the part of the Legislature to include them. In fact, at the time of the passage of this law, in 1895, automobiles were not in general use, nor used at all in the State of Montana. It is a new business which has sprung up since the law was passed.

It might be a good thing on principle to make the owners of automobiles, run for hire, pay the same license as is required of the owners of cabs, but it will take additional legislation to do this. It is not in our power to legislate but rather to construe and apply the law as we find it. The rule of construction relative to such a statute is that “statutes and ordinances imposing licenses and business taxes are to be construed strictly in favor of the citizens and against the government, especially

when they provide penalty for their violation." Am. Eng. Ency. of Law, vol. 21, p. 809.

You are therefore advised that this license law does not cover or apply to automobiles.

Respectfully Submitted,

ALBERT J. GALEN,

Attorney General.