

Motor Vehicles—Licenses.

One who enters into the state with a motor truck for the purpose of engaging in business therein is not a temporary resident or guest and is required to obtain a state license.

Due to the temporary and seasonable nature of the occupation of hauling grain one engaged in that occupation is not required to come under the provisions of chapter 154, laws of 1923.

October 8, 1928.

Robert S. McKellar, Esq.,
County Attorney,
Glasgow, Montana.

My dear Mr. McKellar:

You have requested my opinion on the following questions:

“1. Where owners of motor trucks from another state bring the same into the state of Montana for the purpose of hauling grain for hire during the harvest season, are these trucks required to obtain a Montana license?”

“2. Are these trucks so operated common carriers within the meaning of the law so as to require them to secure a license from the railroad commission before being permitted to operate?”

In answer to your first question, will say that section 1759 R. C. M

1921 provides that non-resident owners of automobiles temporarily sojourning in the state and who have paid for their license plates in another state are exempt.

A "sojourner" is defined by Funk & Wagnalls New Standard Dictionary as a temporary resident or a guest. It is a fundamental principle of statutory construction that in interpreting the statute the intent of the legislature must be followed, if possible, and it appears to me that the words "temporarily sojourning," as used in this statute, refer to a guest rather than a temporary resident, and, clearly, one who enters into the state for the purpose of engaging in business therein is not in any sense a guest in the state, and for this reason it is my opinion that one operating a truck in this state for hire is required to obtain a state license for the same regardless of whether the same has been licensed in another state.

In answer to your second question, will say that the railroad commission has made a ruling that due to the fact of the temporary and seasonable nature of the occupation in which these trucks are engaged, they do not come under the provisions of chapter 154, laws of 1923.

Very truly yours,

L. A. FOOT,
Attorney General.