

Opinion No. 119

Motor Vehicles—Registration—Reciprocal Agreements, in Transit Plates.

HELD: 1. The registrar may enter into reciprocal agreements within his discretion to cover all types of motor vehicles, subject to limitations in statute.

2. Types of operation subject to reciprocal agreement stated.

3. In transit plates may be subject of agreement.

August 16, 1939.

Mr. T. F. Walsh
Deputy Registrar of Motor Vehicles
Deer Lodge, Montana

Dear Mr. Walsh:

You have asked this office for an opinion on the following questions:

1. Under Chapter 93, Laws of 1939, what may be included in reciprocal agreements on the part of the registrar of motor vehicles?

2. What types of operation could be covered to comply with the act?

3. Is the registrar empowered under the act to enter into agreements with other states for the use of license plates, commonly known as "in transit plates"?

Chapter 93, Laws of 1939, amending Sec. 1760.7, R. C. M., 1935, provides:

"* * * the registrar of motor vehicles is authorized and empowered to enter into reciprocal agreements with any country, state or territory exempting from registration and licensing in Montana of the motor vehicle, trailer or semi-trailer of a resident of such country, state or territory when registered and licensed therein, when the laws of such country, state or territory extend the same privilege to, or authorize like reciprocal agreements with respect to motor vehicles, trailers and

semi-trailers registered and licensed in the State of Montana and operated by a resident of this state upon the highways of such country, state or territory. Such reciprocal agreements shall not exempt the non-resident operator from obtaining the temporary permit provided in Section 1760.2 nor shall any such agreement exempt any motor truck, registered and licensed under the laws of such country, state or territory, from registration * * *. Within the meaning of this act a 'motor truck' is a vehicle designed, used or maintained primarily for the transportation of property, or for the transportatin of persons or property for hire."

Section 1760.2 provides that the owner of a registered foreign motor vehicle shall apply to the registrar of motor vehicles of the state or to the sheriff of the first county entered, and execute a form or application setting out his name, permanent business and address.

The reciprocal agreement, under Chapter 93, Laws of 1939, would apply, first, to private passenger cars, duly registered in the state from which they came, and which are not operated for hire. It would apply to passenger cars operated by salesmen, carrying samples for demonstration, where orders are taken but no delivery made. It would apply to vehicles coming into our state by residents of another state with which we have entered into reciprocal agreement, where a thirty day permit is granted on such vehicles and temporary employment in the State of Montana is granted to such residents. It would apply to motor truck, bus or taxicab used to transport the produce of the owner thereof through the State of Montana to eastern points. It would apply to vehicles licensed in such other states to come into Montana to pick up their own purchased property within our state and transport it back to their own states. It would apply, subject to a thirty days' limitation, to trucks registered in a state granting reciprocity for the transportation of equipment for servicing such property as the owner may have in the State of Montana. It would apply to farmers entering the State of Montana on oc-

casional trips with their own produce to sell in the State of Montana. It would apply to transportation of persons on non-profit excursions such as chartered busses and trucks coming into the state. It would apply to dealers coming into the state with a dealer's license, when such dealer has been solicited to come and demonstrate his cars or for caravanning purposes. It would apply to the use of "in transit plates" used by dealers of other states upon cars travelling through out the state, the plates being upon new vehicles transported from the factory to distributing points to dealers in Montana, or for transporting such vehicles through the State of Montana to bona fide dealers in other states. It would apply to sheep shearers who own their private passenger cars and enter the state for the purpose of employment for the limited period of time of sheep shearing. It will not apply to motor trucks, busses or taxicabs operating interstate for hire or for compensation, nor will it apply to trucks carrying sheep shearing equipment.

Chapter 93, Laws of 1939, leaves the making of reciprocal agreements with other states entirely with the registrar. It is within his discretion to make agreements or to refuse agreements. When he enters into a reciprocal agreement with another state or territory the nature of such agreement depends upon his judgment and discretion and this discretion should not be abused. Reciprocity expresses the act of inter-change of favors between persons and nations. We reciprocate favors. (*Occidental Life Insurance Co. v. Holmes*, 107 Mont. 48, 50, 80 Pac. (2) 382.) I would say that in entering into a reciprocal agreement with another state or territory we should extend to such state or territory the same courtesies as may be extended to the State of Montana by such state or territory, subject to the limitations provided in the act, that is, the non-resident must register as provided by Section 1760.2. The purpose of registration is protection in the event of accidents or collisions. Under the said section the Secretary of State is made agent of such non-resident entryman in the service of process, in the event of damages, etc.

The said Chapter 93, Laws of 1939, also provides another limitation, to-wit: motor trucks. Such motor truck as comes within the definition set out in the act, being a vehicle designed, used or maintained primarily for the transportation for hire.