

## No. 301

**MOTOR VEHICLES, foreign licensed—FOREIGN  
LICENSED MOTOR VEHICLES—PERMITS, temporary—  
TRUCKS—AUTOMOBILES—RECIPROCAL AGREE-  
MENTS—REGISTRAR OF MOTOR VEHICLES**

- Held: (1) Any foreign licensed "motor truck" as defined in Section 1760.2, Revised Codes of Montana, 1935, as amended by Chapter 93, Laws of 1939, before being operated on the highways of the State of Montana for compensation or profit, or used in gainful occupation or business enterprise, including highway work, shall first be registered and licensed in the State of Montana in the same manner as domestic owned "motor trucks."
- (2) Section 1760.2, above, applies only to such other foreign licensed motor vehicles.
- (3) The registrar of motor vehicles does not have authority to issue to such foreign licensed "motor truck" owner the permit provided for in Section 1760.2, Revised Codes of Montana, 1935, nor may any reciprocal agreement exempt any such foreign licensed "motor truck" owner from the registration and licensing by the State of Montana.

November 28, 1941.

Mr. Dudley Jones  
Registrar of Motor Vehicles  
Deer Lodge, Montana  
Attention: Mr. M. P. Trenne  
Deputy Registrar

Dear Mr. Jones:

Your department has submitted the following problem to this office:

"Section 1760.7, Revised Codes of Montana, 1935, as amended by Chapter 93, Session Laws of 1939, provides that the registrar of motor vehicles may make reciprocal agreements to exempt from Montana

registration foreign vehicles used in gainful occupation within the State of Montana, and provides that such reciprocal agreements shall not exempt the non-resident operator from obtaining the temporary permit provided in Section 1760.2.

“. . . Section 1760.2 provides that 'The owner of such registered foreign vehicle shall, upon a form to be prepared and furnished by the registrar of motor vehicles, apply to the registrar of motor vehicles in this state, the sheriff at the first county seat entered, who shall be a deputy registrar of motor vehicles, or such other agency or agencies as may have been designated by the registrar of motor vehicles for registration of such vehicle. Such form or application shall state, in addition to other matters that may be required, the following: The name and permanent business and residence address of the owner, number and description of the license already issued to the car.' Does Section 1760.7, Revised Codes of Montana, 1935, as amended by Chapter 93, Session Laws of 1939, give the registrar of motor vehicles authority to issue to a non-resident vehicle employed in gainful occupation, or of which the owner thereof is so engaged, a permit for a period in excess of the time provided by Section 1760.3, Revised Codes of Montana, 1935, providing of course, that such vehicle is not employed in an operation for hire?"

In answering your inquiry it is well to set out Section 1760.7, Revised Codes of Montana, 1935, as amended by Chapter 93, Laws of 1939, which is as follows:

"Be it enacted by the Legislative Assembly, of the State of Montana:

"Section 1. That Section 1760.7 of the Revised Codes of the State of Montana be, and the same hereby is, amended to read as follows:

"Section 1760.7. FOREIGN VEHICLES USED IN GAINFUL OCCUPATION—REGISTRAR OF MOTOR VEHICLES MAY MAKE RECIPROCAL AGREEMENTS TO EXEMPT. Before any foreign licensed motor vehicle shall be operated on the highways of this State for compensation or profit, or the owner thereof is using the vehicle while engaged in gainful occupation or business enterprise, in the State of Montana, including highway work, the same shall be registered and licensed in this State in the same manner as is required in the case of domestic owned vehicles of similar character not heretofore registered or licensed, and if the registrar of motor vehicles is satisfied as to the facts stated in the application, he shall register and license such vehicle and assign thereto an appropriate certificate, emblem or device, which shall at all times be displayed upon such vehicle, when operated or driven upon roads and highways of this State, during the period of the life of such license, providing, however, that 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 and licensing, as hereinbefore provided. 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 transportation of persons or property for hire.'

"Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

"Section 3. That this act shall be in full force and effect from and after its passage and approval.

"Approved March 1, 1939." (Emphasis mine.)

It will be noted that the first above emphasized portion of said amended Section 1760.7, Revised Codes of Montana, 1935, requires that before any foreign licensed motor vehicle shall be operated on the highways of this state for compensation or profit, or the owner thereof is using the vehicle while engaged in gainful occupation or business enterprise, in the State of Montana, including highway work, the vehicle **shall be registered and licensed** in this state in the same manner as is required in the case of domestic owned vehicles of similar character not heretofore registered or licensed.

Section 1760.7, *supra*, as amended, then provides for the registrar of motor vehicles to enter into reciprocal agreements with any country, state or territory under certain conditions.

However, the last two sentences of Section 1760.7, as amended and emphasized above, provide that "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 and licensing, as hereinbefore provided. Within the meaning of this act a motor truck "is a vehicle designed, used or maintained primarily for the transportation of property, or for transportation of persons or property for hire."

It will therefore be seen, from the reading of Section 1760.7, Revised Codes of Montana, 1935, as amended by Chapter 93, Laws of 1939, and the history of this legislation, that the intent of the legislature is plain, unambiguous and certain—in that the legislature intended to and did require such foreign registered and licensed "motor trucks" to be registered and licensed in the State of Montana in the same manner as domestic owned trucks with which they would be in competition.

It is therefore my opinion the owner of any foreign licensed "motor truck" designed, used or maintained primarily for transportation of property, or for the transportation of persons or property for hire, desiring to operate the same on the highways of the State of Montana for compensation or profit or to engage in gainful occupation or business enterprise in the State of Montana, including highway work, shall first be required to have the motor truck registered and licensed in the State of Montana in the same manner as is required in the case of domestic owned motor trucks not heretofore registered or licensed.

It is further my opinion the registrar of motor vehicles does not have authority to issue to such motor truck owner a temporary permit, as provided in Section 1760.2, Revised Codes of Montana, 1935. Reciprocal agreements shall not exempt any such foreign registered and licensed "motor truck" from the registration and licensing by the State of Montana as above set forth.

It is also my opinion Section 1760.2, Revised Codes of Montana, 1935, applies only to foreign licensed motor vehicles not designed and used or maintained primarily for the transportation of property or for transportation of persons or property for hire, and not used or engaged in gainful occupation or business enterprises or highway work in the State of Montana.

Sincerely yours,

JOHN W. BONNER  
Attorney General