



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

199.5-0
GERALD C. MANN
ATTORNEY GENERAL

Honorable Ray Winder
County Attorney, Cooks County
Gainesville, Texas

Dear Sir:

Opinion No. 0-5401
Re: Authority of State Highway
Department, acting through
State Highway Engineer, to
permit out-of-state trucks
properly licensed in their
home states to operate intra-
state for a period of thirty
(30) days without securing
Texas licenses.

We have your letter in reference to the above
matter setting out certain facts and propounding two ques-
tions thereunder, as follows:

"Reference is had to Art. 6675a-16, R.C.
Statutes of Texas, also the following copy of
memorandum:

"License & Weight Inspectors.

"We have been advised by Mr. D. C.
Green, State Highway Engineer, Texas
Highway Department, that his Department
has agreed to let out of state trucks
operate intra-state for a period of 30
days provided that the trucks are proper-
ly licensed in their home States.

"This for your information:

"Yours very truly

"Homer Garrison, Jr., Director,
"By: J. H. Langley, Chief
License and Weight Division."

"The above-quoted order purportedly made by the State Highway Engineer is apparently predicated upon the statute referred to. Please advise whether:

"(1) Said statute is sufficient authority to support the order and agreement of the State Highway Engineer, without being limited to States having a similar reciprocal agreement with Texas?

"In this connection, your attention is invited to the fact that the Statute apparently authorizes such an agreement by the State Highway Engineer only as an reciprocal arrangement with other States granting to Texas motorists like privileges.

"(2) Is the statute mentioned Constitutional insofar as it relates to the granting of exemptions from registration in Texas of trucks from other States where reciprocal agreements are in effect as to Texas?

"I find no authorities on the subject. The statute seems not to have been construed by the Courts of Texas."

Article 6675a-16, provides as follows:

"(a) In addition to and regardless of the provisions of this act, or any other Act relating to the operation of motor vehicles over the public highways of this State by non-residents, the State Highway Department acting by and through the State Highway Engineer is hereby authorized to enter into agreements with duly authorized officials of other States exempting the residents of such other States using the public highways of this State from the payment of registration fees for such periods or extensions of time as may be granted residents of Texas using the public highways of such other State.

"(b) This section shall be cumulative of all other laws on this subject, but in the event of a

no conflict between the provisions of this section and any other Act on this subject, the provisions of this section shall prevail.

"(c) Any person owning or operating a vehicle not registered in this State, in violation of the terms of any agreement made under this section, or in the absence of any agreement, in violation of the applicable registration laws of this State, shall be guilty of a misdemeanor and upon conviction shall be fined any sum not exceeding Two Hundred (\$200.00) Dollars."

The authorization granted by the above statute to the State Highway Department, acting by and through the State Highway Engineer, to enter into agreements with duly authorized officials of other States exempting the residents of such other States from the payment of registration fees for certain periods of time is clearly and definitely limited by the statute to "such periods or extensions of time as may be granted residents of Texas using the public highways of such other State." It is, therefore, not subject to construction on this point, and it follows that our answer to your first question is that said statute is not sufficient authority to support the order and agreement of the State Highway Engineer referred to above, unless said order is limited to states having a similar reciprocal agreement with Texas.

Our answer to your second question is that there are no grounds of unconstitutionality apparent to us in the statute and none has been called to our attention.

Statutory authorization for reciprocal agreements inuring to the benefit of residents of other States where similar benefits are granted to residents of Texas are rather common. Two examples are Article 2854, Section 2, and Article 306a, Vernon's Annotated Civil Statutes.

The classification made in such statutes seems reasonable to us because the benefits extended are to residents of

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other States extending similar benefits to residents of Texas. We have found no decisions holding such classification unconstitutional.

This statute does not seem to us to be an improper delegation of legislative power because when properly construed, it sets up and defines the standards and limits within which the State Highway Department, acting through the State Highway Engineer, may act.

In the case of Interstate Trucking Company v. Dammann, (Wis.) 241 N. W. 625, 82 A. L. R. 1080, the Wisconsin Court sustained the validity of a statute containing similar provisions and discussed the points mentioned above.

We trust that the foregoing fully disposes of the questions propounded in your letter.

APPROVED NOV 13, 1943

Yours very truly

R. W. Archibald

ATTORNEY GENERAL OF TEXAS

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By *E. R. Simmons*
E. R. Simmons
Assistant

ERS:EP

APPROVED
OPINION
COMMITTEE
BY *BWB*
CHAIRMAN