

Fourth, if a person contracts with a school board to drive a motor vehicle for the transportation of school pupils and he is not qualified to perform his contract for the reason that he is not a registered chauffeur, and does not become qualified by becoming registered as a chauffeur, his bondsmen may be held in damages for his failure to perform his contract according to its terms.

Fifth, it is provided in Section 6295, General Code, that publicly owned and operated motor vehicles used exclusively for public purposes shall be registered without charge. For that reason, a school board that owns its own school busses and uses them for no other purpose than for transporting school pupils, may have those busses registered without charge. There is no similar or analogous provision of law with reference to chauffeurs who operate publicly owned motor vehicles. Such chauffeurs must become registered as such, to qualify them to drive publicly owned motor vehicles, and there is no authority for the employer if he be a public officer or public board to pay the fee for the registration of chauffeurs who are hired to drive the publicly owned motor vehicles.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1644.

CHAUFFEUR—LICENSE AND PHYSICIAN'S FEES FOR SUCH EMPLOYEES NOT CHARGEABLE TO BOARD OF EDUCATION, TOWNSHIP TRUSTEES OR COUNTY COMMISSIONERS.

SYLLABUS:

There is no authority of law for a board of education, a board of trustees of a township, or the county commissioners of a county to pay the fees and incidental expenses of employes of such boards who must necessarily be registered as "chauffeurs" or to reimburse such persons for the fees and expenses paid by them to become so registered.

COLUMBUS, OHIO, March 20, 1930.

HON. PAUL J. WORTMAN, *Prosecuting Attorney, Dayton, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion, as follows:

"Pursuant to our conversation and following your opinion No. 1443 dated January 24, 1930, a copy of which you so kindly enclosed me, will you give us your opinion as to whether or not a school board, board of trustees of a township, or the county commissioners of a county may pay the license fee required for a chauffeur's license, together with whatever fee may be charged by a physician for the required medical examination. Also, as to whether or not, if such chauffeur has paid such fees he can be reimbursed by such boards."

Inasmuch as boards of trustees of townships, county commissioners of counties, and boards of education are public boards created by statute, and have such powers only, as are expressly granted to them by statute or necessarily included within such express grants in order to carry the express grants of power to fruition, it becomes

necessary to inquire, in order to answer your question, whether or not these boards are clothed with authority either expressly or by necessary implication, to pay the license fee required for a chauffeur's license, and the other expenses incident thereto, for persons employed by the board as chauffeurs.

A careful search of the statutes will disclose that no such express power is granted, and it seems clear that the authority would not be implied simply because of the express power to hire people to drive motor vehicles any more than it would be implied that such a public board would be authorized to pay the fees and necessary costs for a teacher, or a physician, or a lawyer which they are authorized to employ.

In this connection I would direct your attention to opinion No. 1551 rendered under date of February 24, 1930, the syllabus of which, reads as follows:

"1. A person employed by a board of education to drive a school wagon or motor van for the transportation of school pupils must be duly registered as a "chauffeur" after making application therefor and successfully passing an examination as to his qualifications, in the manner provided in Section 6302, General Code.

2. A board of education is not authorized or permitted by law to pay the fee which must be paid for a chauffeur's license to properly qualify a person for employment by the board as a driver of a school wagon or motor van used in the transportation of pupils."

There seems to be a general misunderstanding with reference to the employment of chauffeurs or persons to drive motor vehicles for hire on the public highways. I am at a loss to understand why there should be such gross misunderstanding with reference to this matter, as the statutes are quite clear, and have been in existence for a number of years, although they have not perhaps been generally enforced.

I am enclosing herewith copies of several recent opinions rendered by this office, which may be of some value to you in satisfying such complainants as the writer of the letter you enclosed with your communication.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1645.

HAT CLEANING—QUESTION OF WHETHER THE USE OF INFLAMMABLE LIQUIDS FOR SUCH PURPOSE CONSTITUTES DRY CLEANING BUSINESS.

SYLLABUS:

A person engaged in the business of cleaning felt and straw hats, by the use of inflammable liquids or substances, may be engaged in the business of dry cleaning, as defined by Section 843-19, of the General Code. Whether or not he is engaged in such business, must be determined from the facts in each particular case.

COLUMBUS, OHIO, March 21, 1930.

HON. ED. D. SCHORR, *Director of Commerce, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your letter of recent date which reads as follows:

"Section 843-19 of the General Code of Ohio provides: