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A TRAILER LICENSED IN ANOTHER STATE, MEETING THE REQUIREMENTS OF SEC. 4503.38, R.C., MAY OPERATE IN THIS STATE FOR 15 DAYS WITHOUT BEING SUBJECT TO OHIO LAWS GOVERNING REGISTRATION AND LICENSING. §4503.38, R.C., §6306. G.C., Amend. Sub. H. B. No. 170, 102 G.A.

SYLLABUS:

Pursuant to Section 4503.38, Revised Code, a trailer duly licensed in another state, and meeting the requirements of that section, may be operated in Ohio for the time specified in the section without being subject to the Ohio laws governing registration and licensing and the penal laws relating thereto; and said section 4503.38 is applicable whether or not the owner of the trailer is a resident Ohio corporation.

Columbus, Ohio, February 9, 1962

Hon. J. Grant Keys, Director
Department of Highway Safety
240 Parsons Avenue, Columbus 5, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“It has recently come to our attention that an Ohio Corporation doing business in Ohio and West Virginia is registering a number of their commercial trailers for use in West Virginia only and now wish to utilize these trailers in Ohio pursuant to Section 4503.38 of the Revised Code.

“The Supreme Court of Ohio in the *Western Express Company vs. Wallace, Registrar of Motor Vehicles*, 140 Ohio State 612, ruled that an Ohio resident corporation could not take advantage of the reciprocity agreements in regard to vehicles which they had properly plated in foreign states.

“We would like to know if a resident Ohio Corporation who has properly plated a number of commercial trailers in a foreign state may now operate those trailers in Ohio for a period of fifteen days as provided in Section 4503.38 of the Revised Code.”

Section 4503.38, Revised Code, as effective January 10, 1961, reads as follows:

“A trailer which is duly registered in any state, district, country or sovereignty other than this state is exempt from the laws of this state pertaining to registration and licensing and the penal statutes relating thereto, provided such trailer is being used in interchange and provided:

“(A) The state, district, country, or sovereignty wherein the trailer is duly registered must extend license plate reciprocity to trailers duly registered in the state of Ohio.

“(B) The power unit pulling such trailer must be operated by a carrier authorized to transport the type of cargo contained in the trailer.

“(C) The power unit pulling such trailer must be duly registered and licensed in the state of Ohio.

“(D) The driver of the power unit pulling such trailer shall have in his possession a properly completed inspection report, or a carbon duplicate thereof; such inspection report shall be in the form required by sections 307.4 and 207.5 of the regulations for motor carriers promulgated by the interstate commerce commission.

“(E) No trailer received in interchange shall receive the above exemptions for the transporting of intrastate freight if retained by the authorized carrier receiving such trailer for more than fifteen days from the date shown on the inspection report as the date of original interchange and inspection.”

Under the above section, a trailer duly licensed in another state and meeting the other requirements of the section, may be operated in Ohio

for the time specified without being subject to the Ohio laws governing registration and licensing and the penal laws relating thereto.

The third paragraph of the syllabus in the case of *The Western Express Company*, Appellant, v. *Wallace, Registrar of Motor Vehicles, et al.*, Appellees, 144 Ohio St., 612, (1945), reads:

“3. Motor vehicles which are owned by an Ohio motor transportation corporation with an established residence in this state, kept and garaged in the state of New York, and used for both intrastate business in that state and interstate transportation between points in Ohio and New York, are subject to registration and payment of the motor vehicle license tax imposed by Section 6291, General Code.”

The statute considered in that case was Section 6306, General Code, which then read:

“The owner of every motor vehicle which is duly registered in any state, district, country or sovereignty other than the state of Ohio shall be exempt from the foregoing sections of this chapter and the penal statutes relating thereto, provided the owner thereof has complied with the provisions of law in regard to motor vehicles in the state of his residence and complies with such provisions while operating and driving such motor vehicle upon the public roads or highways of this state, and further provided that such provisions of law of such other state make substantially like and equal exemptions to the owners of motor vehicles registered in this state.

“Reciprocal agreements between this and any other state, district or country necessary in administering the provisions of this section shall be made as provided in section 6306-1 of the General Code.”

In the *Western Express Company* case, the court held that Section 6306, *supra*, applied only to nonresidents of the state of Ohio, and that an Ohio owner could not take advantage of its provisions. Section 6306, General Code, is now Section 4503.36, Revised Code, and reads substantially the same as it did at the time the case was considered.

It will be noted that Section 6306, General Code (Section 4503.36, Revised Code), applied to the “owner of every motor vehicle.” Section 4503.08, Revised Code, on the other hand, applies to “a trailer,” and does not contain any language which could be interpreted to mean that the owner of the trailer must be a nonresident.

Said Section 4503.38 was enacted in 1957 (127 Ohio Laws, 559, 560), by Amended Substitute House Bill No. 170 of the 102nd General Assembly, ten years after the *Western Express Company* case. The title of that bill reads :

“To enact section 4503.38 of the Revised Code relative to the licensing of foreign trailers carrying intrastate freight in Ohio under an interchange agreement.”

It appears clear that the legislature intended that Section 4503.38, *supra*, rather than Section 4503.36, *supra*, should govern the licensing of trailers duly registered in other states and used in interchange; and I am, therefore, of the opinion that the decision of the *Western Express Company* case which interpreted what is now Section 4503.36, *supra*, is not applicable to such trailers.

To conclude, it is my opinion and you are advised that pursuant to Section 4503.38, Revised Code, a trailer duly licensed in another state, and meeting the requirements of that section, may be operated in Ohio for the time specified in the section without being subject to the Ohio laws governing registration and licensing and the penal laws relating thereto; and that said section 4503.38 is applicable whether or not the owner of the trailer is a resident Ohio corporation.

Respectfully,
MARK MCELROY
Attorney General