

2190

APPROVAL, BONDS OF NEW BAZETTA RURAL SCHOOL DISTRICT, TRUMBULL COUNTY, OHIO, \$2,800.00.

COLUMBUS, OHIO, January 29, 1934.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

2191

MOTOR VEHICLE—NOT SUBJECT TO SUPERVISION AND REGULATION OF PUBLIC UTILITIES COMMISSION WHEN—TRANSPORTATION OF PUPILS TO ATHLETIC CONTESTS.

COLUMBUS, OHIO, January 22, 1934.

SYLLABUS:

A privately owned and registered motor propelled vehicle when used for the transportation for hire of school pupils to or from basket ball and football games and similar athletic contests conducted under the patronage of the public school pupils, is not subject to supervision and regulation as a private motor carrier by the Public Utilities Commission of Ohio.

HON. C. WOOD BOWEN, *Prosecuting Attorney, Logan, Ohio.*

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

“Under the new private motor carrier law, General Code 614-103 provides that the provisions of said law shall not include ‘school busses when engaged in transporting pupils to or from school sessions or school events.’

In case a school bus is privately owned and the license tag has been procured by the owner of the bus as a license for a privately owned and operated motor vehicle, is it necessary that the operator of that school bus be licensed as provided under General Code Section 614-103, et seq. in order that said bus may be used to haul school children who are members of a basket ball team to a school athletic contest?”

By the terms of Amended Senate Bill No. 47, of the 90th General Assembly, jurisdiction is conferred upon the Public Utilities Commission of Ohio to supervise and regulate the private transportation in motor vehicles, of persons or property for hire. The title of the act is as follow.:

“AN ACT

To amend sections 614-94 and 614-100 and to enact supplemental section 614-97a, relating to the regulation of motor transportation

companies and to enact supplemental sections 614-103 * * of the General Code, relating to the regulation of private motor carriers for hire and conferring jurisdiction upon the public utilities commission to supervise and regulate the private transportation of persons or property for hire in motor vehicles * *"

Sections 614-104 and 614-105, General Code, as enacted in the said act, read in part, as follows:

"Sec 614-104. No private motor carrier as defined in the preceding section shall operate any motor vehicle for the transportation of persons or property, or both, for hire, on any public highway in this state except in accordance with the provisions of this chapter. And no such private motor carrier shall continue or commence its operation as such in this state without first obtaining a permit from the public utilities commission as provided in this chapter."

"Sec. 614-105. The public utilities commission of Ohio is hereby vested with power and authority to supervise and regulate each such private motor carrier in this state; * * "

Section 614-103, General Code, as there enacted, in so far as material, reads as follows:

"The following words and terms when used in this chapter, unless the same are inconsistent with the text, shall be construed as follows:

(a) The term 'private motor carrier' shall include every corporation, company, association, joint stock association, person, firm or co-partnership, their lessees, legal representatives, trustees, receivers, or trustees appointed by any court whatsoever, when engaged in the business of private carriage of persons or property, or both, or of providing or furnishing such transportation service for hire, in or by motor propelled vehicles of any kind whatsoever, including trailers, over any public highway in this state, but shall not include motor transportation companies as defined in section 614-84 of the General Code, nor shall the term 'private motor carrier,' as used in this chapter, include * * school busses when engaged in transporting pupils to or from school sessions or school events, * * "

From the terms of the above statutes, it is clear that the owner of a motor propelled vehicle who uses the same in the private transportation of persons or school pupils who are members of a basket ball team, to a school athletic contest, for hire, is a "private motor carrier" as the term is used in the said act, and is subject to supervision and regulation by the Public Utilities Commission unless the athletic contest to which the persons are being transported is a "school event," as the term is used in the statute.

The legislature has not afforded a definition of the term "school event" or indicated in any way just what is meant by the term. Nor has the expression been defined by any court in this state or by any other state, to my knowledge.

It is a primary rule of statutory construction that the intent of the legislature governs as to the meaning of statutes enacted by it. It is also a rule of statutory construction of universal application that words and phrases used in a statute are to be taken in their plain ordinary or usual sense, unless

they are technical words and phrases, in which case they are to be construed according to their technical meaning. *State ex rel. v. Bish*, 12 O. N. P. (N. S.) 369.

It would seem that the term "school event" could not be held to mean anything else than some event occurring in connection with the schools or the public school system—something brought about by reason of the action of the school authorities or the school pupils, something under the patronage of the school authorities or school pupils, such, for instance, as school picnics, literary exhibitions or contests and athletic contests. That no doubt was the sense in which the term "school events" was used in the above statute.

I am therefore of the opinion, in specific answer to your question that a privately owned and registered motor propelled vehicle when used for the transportation for hire of school pupils to or from basket ball and football games and similar athletic contests conducted under the patronage of the public school pupils is not subject to supervision and regulation as a private motor carrier by the Public Utilities Commission of Ohio.

Respectfully,

JOHN W. BRICKER,
Attorney General.

2192

SUPERINTENDENT OF SCHOOLS—UNAUTHORIZED TO ISSUE
AGE AND SCHOOLING CERTIFICATE WHEN—SCHOOL PHYSICIAN
MUST CERTIFY AS TO PHYSICAL FITNESS OF CHILD.

SYLLABUS:

1. *A superintendent of schools is neither authorized nor permitted to issue an age and schooling certificate under the authority of Sections 7764-3 et seq. of the General Code of Ohio, unless and until he has received, examined, approved and filed the certificate from the school physician or physician designated by him, or if there be no school physician from the district health commissioner, or physician designated by him, showing after a thorough examination that the child is physically fit to be employed in such occupations as are not prohibited by law for a boy or girl, as the case may be, under eighteen years of age.*

2. *It is not lawful for a superintendent of schools to issue an age and schooling certificate to a minor of compulsory school age upon the recommendation or certificate as to the physical fitness of the minor, other than the certificate of the school physician or physician designated by him, or the district health commissioner or a physician designated by him, as the case may be.*

COLUMBUS, OHIO, January 22, 1934.

HON. PAUL A. BADEN, *Prosecuting Attorney, Hamilton, Ohio.*

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

"The Superintendent of Schools of this county has a problem