

3229.

CHAUFFEUR—LICENSE UNNECESSARY IF MOTOR VEHICLE NOT OPERATED ON PUBLIC HIGHWAYS.

SYLLABUS:

No violation of Section 12624, General Code, occurs if a person employed to operate a motor vehicle for hire drives or operates such motor vehicle without procuring a chauffeur's license if the motor vehicles so operated are not operated on the public highways at any time but are merely used in hauling stone on privately owned land or in a water course.

COLUMBUS, OHIO, September 19, 1934.

HON. FRANK A. ROBERTS, *Prosecuting Attorney, Batavia, Ohio.*

DEAR SIR:—I am in receipt of your recent communication which reads in part as follows:

“The question has been presented to me as to the proper construction to be placed upon Section 6290, sub-section 15 of the General Code of Ohio which reads as follows:

‘“Chauffeur” means any operator who operates a motor vehicle as an employe for hire,’
in conjunction with Section 12624, G. C., which makes the operation of a motor vehicle as a chauffeur without a proper license a misdemeanor.

A question presented is whether or not in construing Section 12624, G. C., a violation occurs if the operators of the motor vehicles are employed for hire where the motor vehicles are not operated on the public highway for hire, but for use in hauling stone on privately owned land or in a water course hauling stone, but at no time being operated on a public highway.

This question is raised because the statute does not specifically limit the operation of a motor vehicle as a chauffeur to the operation upon public highways.”

Section 12624, General Code, provides as follows:

“Whoever operates a motor vehicle as a *chauffeur* without filing in the office of the director of highways the application required by law and paying the legal fee therefor, shall be fined not more than fifty dollars or suspended from the right to apply for registration as a chauffeur for one year, or both.” (Italics mine.)

Section 6290, General Code, provides inter alia:

“Definitions of terms, as used in this chapter and in *the penal laws*, except as otherwise provided:

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14. ‘Operator’ includes any person who drives or operates a motor vehicle *upon the public highways*.

15. ‘Chauffeur’ means any *operator* who operates a motor vehicle as an employe or for hire.

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17. 'Public roads and highways' for vehicles includes all *public thoroughfares, bridges and culverts.*" (Italics mine.)

Inasmuch as the legislative definition of chauffeur employs the term "operator" it would appear that a person would not be a chauffeur unless he operated a motor vehicle upon the public highways. That is, if we were to substitute the definition of "operator" into the legislative definition of the word chauffeur, it would then read: "'Chauffeur' means any person who drives or operates a motor vehicle *upon the public highways* as an employe or for hire". It is also to be noted that Section 6290 provides that the definition of terms therein laid down are the definitions to be used in the penal laws relating to motor vehicle violations.

Therefore, specifically answering your inquiry, it is my opinion that no violation of Section 12624, General Code, occurs if a person employed to operate a motor vehicle for hire drives or operates such motor vehicle without procuring a chauffeur's license if the motor vehicles so operated are not operated on the public highways at any time but are merely used in hauling stone on privately owned land or in a water course.

Respectfully,
JOHN W. BRICKER,
Attorney General.

3230.

OHIO RECOVERY ACT—ADMINISTRATION OF OATHS AND TAKING OF AFFIDAVITS BY CHIEF INSPECTOR OF WORKSHOPS AND FACTORIES AUTHORIZED WHEN.

SYLLABUS:

If the governor by virtue of the authority granted him in section 2 of the Ohio Recovery Act has delegated to the Department of Industrial Relations his power to investigate labor practices and conditions of employment in any trade or industry, the chief inspector of workshops and factories and district inspectors have authority to administer oaths and take affidavits in their investigation of matters under the Ohio Recovery Act.

COLUMBUS, OHIO, September 19, 1934.

HON. THOMAS A. EDMONDSON, *Director, Department of Industrial Relations, Columbus, Ohio.*

DEAR SIR:—My opinion has been requested upon the power of the chief inspector and district inspectors of workshops and factories to administer oaths and take affidavits in the investigation of matters under the Ohio Recovery Act.

Section 995 of the General Code reads as follows:

"In performance of his duties pertaining to his office, the chief inspector of workshops and factories and each district inspector shall have the authority of a notary public to administer oaths and take affidavits."

The statutes of Ohio (Section 980, General Code, et seq.) which define the