

2526

HOUSE TRAILER—DOES NOT LOSE ITS CLASSIFICATION UNDER MOTOR VEHICLE LICENSE TAX ACT—PRIMARY USE—HUMAN HABITATION—USED INCIDENTALLY AS SITUS OF COMMERCIAL ENTERPRISE—SECTION 6290 G. C.

SYLLABUS:

A house trailer, as defined in Section 6290, General Code, does not lose its classification as such under its motor vehicle license tax act even though, in addition to the primary use as a human habitation, it is used incidentally as the situs of a commercial enterprise.

Columbus, Ohio, November 20, 1950

Hon. R. E. Foley, Registrar, Bureau of Motor Vehicles
Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Effective April 1, 1951, the license plate registration fees for house trailers are changed. At the present time the license plate fees for house trailers are the same as commercial vehicles, that is, based on the weight of the vehicle fully equipped without load. After April 1, 1951 the new full year license plate fee for a house trailer is \$5.00.

“Under Section 6290 of the General Code a house trailer is defined as follows: ‘House trailer’ means any self-propelled and nonself-propelled vehicle so designed, constructed, reconstructed, or added to by means of accessories in such manner as will permit the use and occupancy thereof for human habitation whether resting on wheels, jacks or other foundation and used or so constructed as to permit its being used as a conveyance upon the public streets or highways.

“Your attention is invited to certain house trailers and house cars which, although designed for human habitation and used in such manner, also have installed workshops, sales and display rooms. For example, a knife and scissor sharpener has installed work benches, grinders and vises; a shoe repair shop with all the necessary equipment including motorized buffer is installed in another; a vendor of hot dogs cooks and sells hot dogs from his house car; another has a display of the latest up-to-date kitchen equipment; and others used in this manner.

“The question we would like to have answered is this—for the purpose of license plate registration, does a house trailer have to be used exclusively for human habitation to come under the definition of a house trailer or can it be used incidentally also in a commercial manner?”

The definition of “house trailer” which you have quoted above from Section 6290, General Code, imposes two tests relative to use in determining whether a particular structure falls within the class of vehicles defined. First, it must be so built and fitted as to “* * * permit use and occupancy * * * for human habitation * * *.” Second, it must either actually be used as a conveyance on the public streets or highways, or so constructed as to permit such use. Accordingly, insofar as the test of use is concerned, a vehicle may fall within the class defined entirely on the basis of such construction and fitting as would *permit* these two uses, i.e., as a habitation and as a conveyance, wholly without regard to its actual use.

When these tests are applied to a case where a house trailer has been modified so as to permit a use, and where there is an actual use, for a commercial purpose incidental to the primary use as a human habitation, it is clear the classification of the vehicle is not thereby changed since the construction and fittings are such as still to permit the uses stated in the definition.

This is not to say, of course, where a house trailer has been so modified to prepare it *exclusively* for a commercial use, that it would retain its original classification. In such a case the construction would no longer permit use as a human habitation and the first test in the statutory definition could no longer be met.

The language in the statutory definition here under consideration is plain and unambiguous and in such a situation to add to the stated tests that of exclusive use as a human habitation would be wholly unwarranted and unauthorized.

Accordingly, in specific answer to your inquiry, it is my opinion that a house trailer, as defined in Section 6290 General Code, does not lose its classification as such under the motor vehicle license tax act even though, in addition to its primary use as a human habitation, it is used incidentally as the situs of a commercial enterprise.

Respectfully,

HERBERT S. DUFFY,
Attorney General.