

2056.

TRUCK LICENSED WITH FARM TRUCK LICENSE PLATES—OWNER MAY TRANSPORT FARM PRODUCTS FOR FARM OR FARMS NOT OWNED BY HIM, AND RECEIVE COMPENSATION—POVISO, SUCH USE DOES NOT EXCEED TWENTY-FIVE PER CENT OF “FARM USE” OF SUCH TRUCK.

SYLLABUS:

*The owner of a truck licensed with farm truck license plates may legally transport, for compensation, farm products for a farm or farms not owned, controlled or operated by the owner of such truck, provided such use does not exceed twenty-five per cent of the farm use of such truck.*

Columbus, Ohio, March 21, 1940.

Hon. Cylon W. Wallace, Registrar, Bureau of Motor Vehicles,  
Columbus, Ohio.

Dear Sir:

This will acknowledge receipt of your request for my opinion which reads as follows:

"Calling your attention to the provisions of Section 6292 G. C. regarding the use of farm truck license plates, in order to clear up many questions in contention will you please give us your opinion as to what constitutes 'commercial purposes?'"

Specifically may the owner of a truck licensed with farm truck license plates legally transport cattle, sheep, hogs, tomatoes, sugar beets and other farm products for a farmer in the delivery of such products to market when compensation is received?"

Section 6292 of the General Code, provides in part as follows:

"\* \* \* \* \*"

For each farm truck which is owned, controlled or operated by one or more farmers exclusively in farm use as hereinafter defined, and not for commercial purposes, and provided that at least seventy-five percent (75%) of such farm use shall be by or for the one or more owners, controllers or operators of the farm or farms, in the operation of which a farm truck is used, the license tax shall be as follows:

\* \* \* \* \*

For the purposes of this act, use of a farm truck is defined as one used in the transportation from the farm of products of the farm, including livestock and its products, poultry and its products, floricultural and horticultural products, and in the transportation to the farm of supplies for the farm including tile, fence and every other thing or commodity used in agricultural, floricultural, horticultural, livestock and poultry production, and livestock, poultry and other animals and/or things used for breeding, feeding or other purposes connected with the operation of the farm or farms.

The term farm supplies shall include fuel used exclusively in the operation of a farm, including one or more homes located on and used in the operation of one or more farms and/or furniture and other things used in and around such homes.

\* \* \* \* \*

By virtue of the above section, the owner of a truck may use farm truck license plates if such vehicle is operated exclusively in farm use. Seventy-five per cent of such farm use must be by or for the owner, controller or

operator of the farm in the operation of which the farm truck is used. "Farm use" is defined as the transportation from the farm of products of the farm and the transportation to the farm of supplies for the farm. The words "the farm" must be construed to include not only the farm of the owner of the truck, but also any other farm by or for which such truck is used. This construction is necessitated by the fact that not to exceed twenty-five per cent of the use of such truck may be by or for a farm not owned, controlled or operated by the owner of the truck.

It will be seen that there is no mention of compensation or hire in relation to the twenty-five per cent use for a farm or farms not owned, controlled or operated by the owner of the truck. Consequently it appears that if such use is "farm use" as defined in section 6292, *supra*, the element of compensation is immaterial.

Section 6292, *supra*, provides that such farm truck must be used "exclusively in farm use as hereinafter defined *and* not for commercial purposes". Thus, the Legislature contemplated "farm use" and "commercial purposes" as two separate spheres of operation. If it had been intended to restrict "farm use" by words "commercial purposes", the statute would have provided that such truck must be used "exclusively in farm use *but* not for commercial purposes".

The conclusion herein reached is supported by Opinion No. 2426, rendered by the then Attorney General under date of May 10, 1938, wherein it was stated:

"In view of the foregoing, the conclusion is in my judgment inescapable that so long as the hauling of supplies or products to or from farms other than those owned, controlled or operated by the licensee does not comprise more than 25% of the farm use to which the truck is exclusively devoted, the license tax provided by Section 6292, *supra*, is applicable.

It should be observed in conclusion that the statute makes no mention of whether there is or is not any compensation paid for such farm use as is devoted to hauling for farms other than the farm or farms owned, controlled or operated by the licensee, and therefore the matter of whether such farm use is or is not done for compensation, or who pays the compensation, if any, has no bearing on the question."

In view of the above and in specific answer to your inquiry, I am of the opinion that the owner of a truck licensed with farm truck license plates may legally transport, for compensation, farm products for a farm or farms

not owned, controlled or operated by the owner of such truck, provided such use does not exceed twenty-five per cent of the farm use of such truck.

Respectfully,

THOMAS J. HERBERT,  
Attorney General.