3330

A POWER UNIT LICENSED IN THIS STATE USED TO PULL A TRAILER LICENSED IN ANOTHER STATE BOTH OWNED BY THE SAME PERSON DOES NOT CONSTITUTE AN "INTERCHANGE" AGREEMENT—Opinion 2811, OAG, 1962, §4503.38 R.C., O.H.B. 170, 102nd G.A., Title 49, §207.5, G.C.

SYLLABUS:

Where a power unit which is registered and licensed in this state is used to pull a trailer which is registered in another state, both power unit and trailer being under one ownership, the trailer is not exempt from registration in this state under Section 4503.38, Revised Code, as such a practice does not constitute "interchange" within the purview of that section.

Columbus, Ohio, October 9, 1962

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

Dear Sir:

Your request for my opinion reads as follows:

"I recently requested and received your opinion concerning whether the interchange provision, Section 4503.38, Revised Code, applied to an Ohio resident's motor vehicles, titled and registered in a foreign state, Opinion No. 2811, Opinion of the Attorney General for 1962.

"It has now come to my attention that an Ohio resident, operating as a private carrier, is licensing and titling trailers in foreign states and is claiming the right to operate their trailers, titled and registered in the foreign state, in interchange in Ohio with his Ohio plated tractors for fifteen days under the provisions of Section 4503.38, Revised Code.

"I hereby request your opinion in regard to the following matters:

"(1) Does the above practice come within the meaning of 'interchange' as the term is used in Section 4503.38, R. C.?

"(2) Does Section 4503.38, R. C., apply to private carrier as well as common carriers?"

Section 4503.38, Revised Code, provides:

"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 207.4 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."

In my Opinion No. 2811, issued on February 9, 1962, I held in the syllabus as follows:

"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."

In said Opinion No. 2811 I did not attempt to decide the meaning of the word "interchange" as used in the statute since such a determination was not necessary for the purposes of that opinion. An answer to the question posed in your request does, however, entail a consideration of the meaning of that term.

Section 4503.38, *supra,* does not define the word "interchange," nor am I able to find any other statutory definition of that word. In Webster's New International Dictionary, 3rd Edition, "interchange" is defined as "an act of changing each for the other or one for another * * *", and as:

"A process of moving cars among railroads to provide uninterrupted movement by rail without unloading and reloading."

The ordinary definition of the word does not appear sufficient to resolve the instant question and it is thus necessary to look elswhere to ascertain the intention of the legislature in this area.

Section 4503.38, *supra,* was enacted as a part of Amended Substitute House Bill No. 170 of the 102nd General Assembly, effective September 9, 1957. The title of the bill reads as follows:

"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.*" (Emphasis added)

It is a well established rule that resort may be had to the title of an act as an aid in interpreting it where the subject matter of the act is of doubtful meaning. 50 Ohio Jurisprudence 2d, 243, Section 259. The title of Amended Substitute House Bill No. 170, *supra,* so far as it refers to an interchange "agreement," may thus be considered in ascertaining the intent of the legislature in referring to a trailer "being used in interchange" as is done in Section 4503.38, *supra.*

To have an "agreement" there must necessarily be more than one party involved; a person can not enter into an agreement with himself. In the instant question, therefore, where the Ohio resident owns both the trailer which is being brought into Ohio and the power unit which is pulling the trailer it would be impossible to have an interchange "agreement."

The intention of the legislature in referring to "interchange" thus appears to entail a situation where there is an agreement between two parties, the owner of the trailer and the owner of the power unit, by which the power unit will be used to pull the trailer into Ohio; and this interpretation is in accord with the meaning of the word "interchange" under the federal interstate commerce commission rules.

The federal interstate commerce commission regulates the trucking industry insofar as it engages in interstate commerce and has adopted a rule applying to interchange of equipment. That rule, Section 207.2 (c), Interstate Commerce Commission Rules and Regulations, Title 49, Code of Federal Regulations, reads as follows:

> "(c) Interchange of equipment. The physical exchange of equipment between motor common carriers or the receipt by one such carrier of equipment from another such carrier, in furtherance of a through movement of traffic, at a point or points which such carriers are authorized to serve."

Also pertinent is division (a) of Section 207.5, Interstate Commerce Commission Rules and Regulations, Title 49, Code of Federal Regulations, reading:

> "*The contract, lease, or other arrangement* providing for interchange shall specifically describe the equipment to be interchanged; the specific points of interchange; the use to be made of the equipment, and the consideration for such use; and shall be signed by the *parties to the contract, lease, or other arrangement,* or their regular employees or agents duly authorized to act for them, in the execution of *such contracts, leases, or other arrangements.*" (Emphasis added)

It is apparent that the Ohio owner of the trailer and power unit in the instant case could not comply with Rules 207.2 and 207.5, *supra,* as there would be no physical exchange of equipment between motor common carriers and no contract, lease, or other arrangement providing for interchange—there being only one party involved in said instant case. In this regard, it will be noted that division (D) of Section 4503.38, *supra,* requires that the driver of the power unit have an inspection report promulgated by the interstate commerce commission, and that the report be in the form required by Sections 207.4 and 207.5 of the regulations of the commission. In my opinion, the reference to Section 207.5 clearly implies that in referring to "interchange", the legislature contemplated an interchange of equipment between motor carriers as described in Sections 207.2 and 207.5, Interstate Commerce Commission Rules and Regulations; and the fact that the driver of the power unit must have an inspection report in his possession for the trailer to qualify under the section, strengthens this conclusion.

In view of the foregoing, I answer your first question in the negative.

As to your second question, it appears to be answered by the conclusion reached in the first question. In referring to a private carrier I assume you mean an operator who hauls freight, etc., for himself, and that by common carrier you mean an operator who hauls freight, etc., for others. As discussed above, the operator hauling for himself would not enter into an interchange agreement where he pulls his own trailer. Further, only a common carrier could comply with the rules of the interstate commerce commission as referred to above.

Accordingly, it is my opinion and you are advised that where a power unit which is registered and licensed in this state is used to pull a trailer which is registered in another state, both power unit and trailer being under one ownership, the trailer is not exempt from registration in this state under Section 4503.38, Revised Code, as such a practice does not constitute "interchange" within the purview of that section.

Respectfully,
MARK MCELROY
Attorney General