

OPINION 33

OFFICIAL OPINION NO. 33

June 27, 1956

Honorable Warren Buchanan, Chairman
Public Service Commission of Indiana
Room 401, State House
Indianapolis 4, Indiana

Dear Mr. Buchanan:

In your letter of June 1, 1956, you requested an Official Opinion from me in respect to the effect of certain action taken by the Reciprocity Commission of Indiana on July 20, 1955. You set out the following entry of record of that Commission of said date:

“Full discussion was also held regarding operators from other states, registering their equipment with the Indiana Public Service Commission, and on motion properly seconded and carried by unanimous vote, it was agreed that operators domiciled in states having reciprocity agreements with Indiana would be privileged to lease equipment that was titled and registered in other states having reciprocity agreements with us, without purchasing the Public Service Commission Registration Decal.

“Indiana operators leasing equipment owned and titled in states other than Indiana are required to purchase the registration decal on such leased equipment the same as required on their Indiana vehicles.”

You also set out the following portion of a letter concerning the payment of registration fees pursuant to the Acts of 1935, Ch. 287, Sec. 35, as amended by the Acts of 1943, Ch. 259, Sec. 1, as found in Burns' Indiana Statutes (1952 Repl.), Section 47-1245, circulated to all motor vehicle carriers, common and contract, by The Public Service Commission of Indiana:

“If motor vehicles, owned or operated by carriers domiciled in a state other than the State of Indiana, are registered, licensed, and fees paid thereon in any state other than that of the carrier's domicile (including Indiana) then such carrier shall pay the registration fees required under the aforesaid section 35.”

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Your question was in two parts as follows:

1. Is the action of the Reciprocity Commission of July 20, 1955, set out above, enforceable by the Public Service Commission as a valid reciprocal contract entered into by said Reciprocity Commission?

2. Does that action of the Reciprocity Commission have the effect of vitiating the paragraph of the Commission's letter set out above?

I must first point out that to my knowledge there has at no time been any approval requested, given or extended by me, as Attorney General of Indiana, as to regularity and form, in respect to the above-cited action of the Reciprocity Commission of Indiana as required by the Acts of 1945, Ch. 178, Sec. 3, as found in Burns' Indiana Statutes (1952 Repl.), Section 47-203, so that if it be considered as a contract, agreement, or consent, it is invalid.

Any statement by me in an Official Opinion or other public statement concerning a matter which has not been referred to me for action would be improper, and I, therefore, will not herein discuss the question of validity of this or any other action of the Reciprocity Commission which has not been the subject of a request by that Commission for my approval pursuant to statute.

Of course, the duty of your Commission to charge the registration fee is stated in the Acts of 1935, Ch. 287, Secs. 22, 25, 26 and 35, as amended, and as found in Burns' Indiana Statutes (1952 Repl.), Sections 47-1232, 47-1235, 47-1236 and 47-1245.

My answer to both your questions is simply that the aforesaid action of the Reciprocity Commission of July 20, 1955, could have no legal effect at this time upon any action which The Public Service Commission of Indiana takes or has taken in regard to the payment of statutory registration fees.