

OPINION 37

OFFICIAL OPINION NO. 37

December 31, 1975

Mr. Ralph W. VanNatta, Commissioner
Bureau of Motor Vehicles
401 State Office Building
Indianapolis, Indiana 46204

Dear Commissioner VanNatta:

This is in response to your requests for opinions concerning motor vehicles, specifically, (1) whether Public Law 67 of the Indiana Acts of 1975, amends the Indiana Code of 1971, section 9-7-6-2, so as to allow the unlimited use of antique vehicles; and (2) whether a volunteer operator of a church bus transporting persons to church on Sunday or children to a church-operated school must possess a public passenger chauffeur's license.

ANALYSIS

Indiana Code of 1971, section 9-7-6-1(a) defines the term "antique motor vehicle" as follows:

"(a) The term 'antique motor vehicle' shall mean any motor vehicle which is at least twenty-five [25] years old and which is owned solely as a collector's item and used for exhibition and education purposes by the owner."

In 1963 an Attorney General's Opinion (1963 O.A.G. No. 25, p. 120) emphasized that the definition of an "antique motor vehicle" restricted the use of such vehicles to exhibition and educational purposes by the owner. That opinion states at p. 123:

"* * * It also seems proper to assume that it was the legislative intent to provide for the *occasional* use of such vehicles on the highways as distinguished from the daily and regular use of such vehicles as a means of transportation to and from work or business or routine activities."

1975 O. A. G.

Public Law 67 of the Indiana Acts of 1975 amended Indiana Code of 1971, section 9-7-6-2 to provide for the annual registration of antique motor vehicles. Prior to this amendment, Code section 9-7-6-2 permitted the permanent registration of such vehicles. The definition of an "antique motor vehicle," however, was not changed by the amendment. Thus, the owner of an "antique motor vehicle" still is required to pay the regular registration fees in order to exercise the unlimited use of the vehicle.

With respect to the second question concerning church bus operators, Code section 9-1-1-2(bb) defines a "public passenger chauffeur" as:

"Every person who operates a motor vehicle while in use as a school bus for the transportation of pupils to or from school, or to or from school athletic games or contests, or any person who operates a motor vehicle while in use as a public passenger carrying vehicle."

Code section 9-1-4-26(d) provides:

"No person shall operate a school bus while in use for the transportation of pupils to and from school or a motor vehicle while in use as a public passenger vehicle, unless he has a valid public passenger chauffeur's license."

Under this definition of a "public passenger chauffeur," a person transporting pupils to a church-operated school must possess a public passenger chauffeur's license.

As to the question of whether a person who transports persons to church on Sunday must possess a public passenger chauffeur's license, resort must be had to the legislative intent in setting out distinctions as to the qualifications and requirements for the various types of licenses since the term "public passenger" is not defined by statute. The reason for the qualifications required before the Bureau of Motor Vehicles can issue a public passenger chauffeur's license is to protect the public passenger. Such intent cannot be obviated or ignored. It is inconsistent to require a person transport-

OPINION 37

ing pupils to a church-operated school to obtain a public passenger chauffeur's license but not require such a license when these very same pupils, along with their parents, are taken to church on Sunday. Therefore, persons taken to church on Sundays must be construed to be public passengers within the meaning of Code section 9-1-1-2(bb).

CONCLUSION

1. It is, therefore, my Official Opinion that although the Indiana Code of 1971, section 9-7-6-2, now provides for annual registration of "antique motor vehicles," it does not permit the unlimited use of those vehicles. If the owner of an "antique motor vehicle" desires to exercise the unlimited use of that vehicle, he or she must pay regular registration fees as do the owners of all other motor vehicles.

2. It is further my Official Opinion that a volunteer who operates a church bus on the public highways must possess a public passenger chauffeur's license according to Indiana law as must all other operators of buses.