

OPINION 22

OFFICIAL OPINION NO. 22

August 25, 1969

Mr. James O. Mathis, Commissioner  
Department of Revenue  
State Office Building  
Indianapolis, Indiana

Dear Mr. Mathis:

This is in response to your request for an Official Opinion on the following question:

Does Ch. 417 of the Acts of 1969, apply to all vehicles meeting the definition of a commercial motor vehicle or only those commercial motor vehicles not licensed by the State of Indiana?

In answer to your question the Acts of 1969, Ch. 417 does apply to all *commercial motor vehicles*.

The title of Acts of 1969, Ch. 417 reads as follows:

“AN ACT to impose an additional fuel use tax on *certain vehicles using Indiana’s highways*.” (My emphasis)

Such title evidences a legislative intent to impose a new and additional fuel tax upon certain vehicles using Indiana’s highways and the definition of those vehicles is found in Sec. (2b) of said Act and reads as follows:

“‘Commercial motor vehicle’ means a passenger vehicle that has seats for more than nine (9) passengers in addition to the driver, or any road tractor, or any tractor truck or any truck having more than two (2) axles; which passenger vehicle, road tractor, tractor truck or truck is propelled by motor fuel.”

No words of limitation evidence an intent in the definition of commercial motor vehicles that commercial motor vehicles affected by the Act are to be restricted to those *not licensed* by the State of Indiana.

The Act further defines “carrier” as:

“\* \* \* any person who operates or causes to be operated *any commercial vehicle* on any highway in this state \* \* \*” (My emphasis)

Section 3 of the Act provides that:

“(a) *Every carrier* shall pay a road tax calculated on the amount of fuel consumed in its operation on highways within this state \* \* \*” (My emphasis)

The Act, at Section 16, exempts certain vehicles from the provisions of the Act, but no vehicle is exempted on the basis of not being licensed by the State of Indiana. *School and charter buses are exempt.*

The entire tenor of the Act seems to be directed to all carriers, every carrier, and any carrier which operate vehicles within the definition of commercial motor vehicle. There is no limitation or exemption based upon the fact of a vehicle being licensed or not licensed by the State of Indiana.

The Act, at Section 1, does contain the following language:

“\* \* \* the administration of this act as a whole, shall promote the implementation of the taxation of motor fuel on the basis of consumption within the state by commercial motor vehicles not licensed by the State of Indiana.”

It is evident that a taxing act imposing a tax upon the consumption of fuel within the State of Indiana on commercial motor vehicles operated by every carrier will implement the taxation of motor fuel consumed within the state by commercial motor vehicles not licensed by the State of Indiana. However, such a statement of purpose does not evidence an intent to limit the effects of imposing the tax upon commercial motor vehicles operated by every carrier to only those vehicles not licensed by the State of Indiana.

It is my opinion that Acts of 1969, Ch. 417 *does* apply to all commercial motor vehicles, including those licensed by the State of Indiana, with the exemptions noted in Section 16.