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as a school bus for the transportation of pupils to or from school.”

It would seem clear that the Legislature, in considering the requirements for the issuance of chauffeurs' licenses, anticipated that any person employed for hire for the principal purpose of operating a motor vehicle upon the public highways or for the purpose of operating a motor vehicle on a public highway, which vehicle is to be used for the transportation of property for hire, should have a chauffeur's license, and this same concept has been before the General Assembly in 1945, 1947, 1951 and 1955.

Therefore, in answer to your first question it is my opinion that an employee hired for the principal purpose of driving a truck on, including back and forth across, a state highway should have a chauffeur's license.

With respect to the second question in your letter, liability for damages arising out of an accident in which a motor vehicle, truck or otherwise, is involved, would necessarily be dependent upon a consideration of all the facts and circumstances surrounding the accident. Thus, it would be impossible, under the form of your second question to state categorically whether or not the driver would be personally liable. This is the type of situation which, in its entirety, would and should be placed before a court to determine the question of such liability.

OFFICIAL OPINION NO. 63

December 11, 1963

Hon. Joseph W. Harmon
State Representative
133 East Chestnut Street
Corydon, Indiana

Dear Representative Harmon:

Your recent letter requesting my Official Opinion has been received, and, in pertinent part, reads as follows:

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"I would like an opinion as to whether the 'seat belt' law (Ch. 130, Secs. 1, 2, and 3, pages 115 and 116, Acts of 1963) applies to pickup trucks.

"Many of our people use pickup trucks as their only source of transportation and so far this category of automotive vehicle has not been clarified."

The Acts of 1963, Ch. 130, as found in Burns' (1963 Supp.), Section 47-2241 *et seq.*, being somewhat short, is set out in full as follows:

"AN ACT requiring the installation of safety belts in automobiles, and prescribing penalties.

"Be it enacted by the General Assembly of the State of Indiana:

"SECTION 1. It is unlawful for any person to buy, sell, lease, trade or transfer from or to Indiana residents at retail an automobile which is manufactured or assembled commencing with the 1964 models, unless such automobile is equipped with safety belts installed for use in the front seat thereof.

"SEC. 2. All such safety belts shall be of a type and shall be installed in a manner approved by the Commissioner of the Bureau of Motor Vehicles. The Commissioner shall establish specifications and requirements for approved types of safety belts and attachments thereto. The Commissioner shall accept, as approved, all seat belt installations and the belt and anchor meeting the society of automotive engineers' specifications.

"SEC. 3. It is a misdemeanor for any person to violate any of the provisions of this act punishable, upon conviction, by a fine of not more than one hundred dollars or by imprisonment for not more than ten days."

Your question necessarily reduces itself as to whether or not the legislative use of the word "automobile" was intended to encompass more than the concept of a strictly passenger-type vehicle.

This Opinion, therefore, must be confined to distinguishing between an "automobile" and a "pick-up truck." The term "automobile" will be taken up later herein. However, for purposes of this Opinion only, it is assumed that a "pick-up truck" is a motor vehicle consisting of a cab for the driver and one or two passengers, and an open bed platform designed and maintained primarily for the transportation of property. This definition would be consistent with the Acts of 1939, Ch. 48, Sec. 4, as found in Burns' (1952 Repl.), Section 47-1804, and Acts of 1945, Ch. 304, Sec. 2, as amended, as found in Burns' (1963 Supp.), Section 47-2702(d).

Recourse to the legal compendiums and the cases across the country as to the meaning of the term "automobile" leads one to a great variety of definitions, some of which go so far as to include not only passenger vehicles but trucks, construction equipment, motorcycles, and/or bicycles. Many of these cases construing the term "automobile" arise from the interpretation of contracts of purchase and/or contracts in the nature of motor vehicle liability insurance policies, as well as the interpretations of statutes using that term.

While I have been unable to find a case in this state which defines the term "automobile," there are several cases which use the term "automobile" in relation to motor vehicle statutes, but it would seem that in those cases the court was merely referring to the particular type of motor vehicle there involved in that case before it, rather than using the term synonymously with "motor vehicle."

Thus, it would seem that in order to derive the legislative intent as to the meaning of the term "automobile" in Burns' 47-2241 *et seq.*, *supra*, we must look to other current statutory expressions by the General Assembly on similar subjects, namely traffic safety and safety devices for automobiles. In this respect it is noted that we have two rather extensive and recent statutes concerning vehicular traffic in this state, viz., the Bureau of Motor Vehicles Act of 1945, as found in the Acts of 1945, Ch. 304, as amended, as found in Burns' (1952 Repl. and 1963 Supp.), Section 47-2401 *et seq.*, and also the Indiana Safety Responsibility and Driver Improvement Act of 1947, as found in the Acts of 1947, Ch. 159, as amended, as found in Burns' (1952 Repl. and 1963 Supp.), Section 47-1044

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et seq. The area of concern in each of these statutes is that of "motor vehicles" which, by definition in such statutes, is more generic than the mere concept of an "automobile."

Burns' 47-2402(b), *supra*, provides, in part:

"(b) Motor vehicle. *Every vehicle*, as herein defined, which is self-propelled, except those vehicles which are included in the term 'farm tractor,' as herein defined." (Our emphasis)

The vehicle referred to is defined in Burns' 47-2402(a) as:

"(a) Vehicle. Every device in, upon, or by which any person or property is, or may be, transported or drawn upon a public highway, except devices moved by human power and shall not be construed to include such vehicles as run only on rails or tracks, vehicles propelled by electric power obtained from overhead trolley wires, but not operated upon rails or tracks
* * *"

Burns' 47-1045(j), *supra*, also provides:

"(j) Motor vehicle. *Every vehicle* which is self-propelled upon a public highway in this state, excepting farm tractors." (Our emphasis)

In addition to the foregoing, the General Assembly in a very broad-reaching act regulating traffic on highways and defining crimes with regard to the use and operation of vehicles thereon, had previously enacted the Acts of 1939, Ch. 48, as amended, as found in Burns' (1952 Repl. and 1963 Supp.), Section 47-1801 *et seq.* The General Assembly again there had defined "vehicle" and "motor vehicle" in Burns' 47-1802, *supra*, as follows:

"(a) Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

"(b) Motor vehicle. *Every vehicle* which is self-propelled and every vehicle which is propelled by elec-

tric power obtained from overhead trolley wires, but not operated upon rails.” (Our emphasis)

It should be further pointed out that the Legislature has defined a “passenger motor vehicle” in the Acts of 1945, Ch. 304, Sec. 2, as amended, as found in Burns’ (1963 Supp.), Section 47-2402(x). This definition reads as follows:

“Passenger motor vehicle: Every motor vehicle designed for carrying passengers except a motorcycle, bus or school bus.”

This definition taken into consideration with the definitions of “truck,” “pick-up truck,” “vehicle” and “motor vehicle” would lead to the result that the term “motor vehicle” is the all embracing term in this state and any other expression would have a limited meaning.

It must thereupon be concluded that the General Assembly, from 1939 on, in the consideration of safety on the public highways, has generally spoken in terms of “vehicles” and “motor vehicles” when it intended to include within the provisions of its statutes more than mere passenger vehicles. Yet, in Burns’ 47-2241, *supra*, the General Assembly specifically chose to use the word “automobile” rather than the term “motor vehicle,” and it must be assumed, therefore, that it intended something less than “motor vehicles” and that an automobile is that which is generally understood as being a self-propelled vehicle specifically designed for the exclusive purpose of hauling the driver and passengers.

The foregoing conclusion is necessarily buttressed by the last clause contained in the single sentence constituting Burns’ 47-2241, *supra*, wherein the General Assembly has referred to the equipping of such automobile with safety belts installed for use *in the front seat* thereof, thereby denoting a vehicle containing more than one seat, such as the usual passenger-type of motor vehicle.

Therefore, in answer to your question, it is my opinion that the seat belt law was not intended by the 1963 General Assembly to apply to pick-up trucks, but to vehicles principally constructed for private passenger conveyance.