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SPRINGFIELD

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FILE NO. S-1047

MOTOR VEHICLES:
Safety Standards and Second
Division Vehicles

Honorable Loren S. Golden
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Courthouse
Mt. Carroll, Illinois 61053

Dear Mr. Golden:

I have your letter wherein you ask whether section 13-114 of The Illinois Vehicle Code (Ill. Rev. Stat. 1973, ch. 95 1/2, par. 13-114) exempts a resident carrier in possession of an Interstate Commerce Commission "sticker" from prosecution under section 13-111 of The Illinois Vehicle Code. Ill. Rev. Stat. 1973, ch. 95 1/2, par. 13-111.

The intent of the General Assembly in enacting section 13-114 of The Illinois Vehicle Code (Ill. Rev. Stat.

Honorable Loren S. Golden - 2.

1973, ch. 95 1/2, par. 13-114) was clearly to insure that certain resident carriers complied either with State or Federal safety regulations. Section 13-114 reads in pertinent part:

" * * *

Any resident of this State who is an interstate carrier as defined in 'The Illinois Motor Carrier of Property Law' or uses such vehicle in intrastate and interstate commerce, shall be subject to the provisions of this Chapter unless he has complied with the federal safety provisions of the Bureau of Motor Carrier Safety of the Federal Highway Administration and the rules and regulations of the Bureau."

It seems equally clear that an outright failure to comply with either would constitute a violation of section 13-111 of The Illinois Vehicle Code (Ill. Rev. Stat. 1973, ch. 95 1/2, par. 13-111) which states in part:

"* * * No person shall operate a second division vehicle upon the highways of this State unless there is affixed to the second division vehicle a certificate of safety then in effect. The Department shall determine the expiration date of the certificate of safety. * * *"

The question you then pose is whether the grant of an Interstate Commerce Commission certificate is a binding determination

Honorable Loren S. Golden - 3.

of compliance with the Federal regulations for purposes of sections 13-114 and 13-111.

To answer your question it is necessary to begin by noting that a carrier's safety record is considered by the Interstate Commerce Commission, under the general heading of "fitness", in considering the carrier's application for operating authority. (Part 2 of the Interstate Commerce Act, §7, 49 U.S.C.A. §307 (1963).) Because the promotion of highway safety comes within the general purview of the Department of Transportation (Department of Transportation Act, §6(a), 49 U.S.C.A. §1655e (Supp., 1976)), that agency submits a report on the safety record of the carrier to the commission. (Department of Transportation Act, §4e, 49 U.S.C.A. §1653e (Supp., 1976).) An eventual grant of a certificate by the commission is thus dependent in part on a favorable safety record. In my opinion, however, it was not the intent of the General Assembly that the granting of a certificate based on the carrier's past record should act as a final determination of "compliance" with Federal safety regulations for purposes of section 13-114.

Honorable Loren S. Golden - 4.

As in any case involving the construction of a statute the single overriding consideration is to give effect to the intent of the legislature. (People ex rel. Hanrahan v. White, 52 Ill. 2d 70, cert. den., 409 U.S. 1059 (1972).) Normally this intent is determined by recourse to the words of the statute, (Western Nat. Bank of Cicero v. Village of Kildeer, 19 Ill. 2d 342), but where, as here, the language is ambiguous or uncertain, recourse may be had to the subject matter of the act (Carrigan v. Illinois Liquor Control Commission, 19 Ill. 2d 230) and the reasons for its enactment. People ex rel. Carson v. Ring, 41 Ill. 2d 305.

In the present case, section 13-114 is part of a broad statutory scheme involving the application of specified minimum safety standards to certain vehicles operating on the roads of Illinois. The purpose of these standards, as set forth in section 13-101 of The Illinois Vehicle Code (Ill. Rev. Stat. 1973, ch. 95 1/2, par. 13-101) is: "To promote [the] safety of the general public * * *."

Section 13-114 itself provides that certain carriers are exempt from compliance with Illinois standards and procedures

Honorable Loren S. Golden - 5.

if they have complied with Federal safety regulations. This provision indicates a decision by the General Assembly that, for purposes of promoting the public safety, either State or Federal safety regulations provide adequate minimum standards. There is no indication, however, that the legislature meant the grant of an Interstate Commerce Commission certificate to settle for all time the question of a carrier's compliance with the applicable Federal regulations. The promotion of highway safety, regardless of which set of regulations is to be applied, is by its nature an ongoing process.

It is also relevant in dealing with the question you pose to compare the enforcement procedures provided for in Federal law with those set forth in The Illinois Vehicle Code. (Ill. Rev. Stat. 1973, ch. 95 1/2, pars. 13-101 et seq.)

Such comparison is warranted because it is to be presumed that the legislature in enacting section 13-114, referring as it does to Federal safety regulations, did so with full knowledge of existing Federal law. See, Gaither v. Lager, 2 Ill. 2d 293.

Under the rules provided by the Federal Bureau of

Honorable Loren S. Golden - 6.

Motor Carrier Safety each carrier must systematically inspect and maintain all vehicles subject to its control and maintain records reflecting its compliance with these requirements.

(49 C.F.R. §396.2.) No provision is made, however, for periodic inspection and certification by government licensed inspectors. At best, carriers subject to Federal safety regulations may have to submit occasionally to random spot checks of vehicles in operation conducted by government agents. 49 C.F.R. §396.5.

In contrast, under section 13-109 of The Illinois Vehicle Code (Ill. Rev. Stat. 1973, ch. 95 1/2, par. 13-109) all second division vehicles, with certain limited exceptions, must be inspected at an official testing station before applying for a license and subsequently are subjected to retesting on a semi-annual basis.

This important difference in the nature of safety enforcement under Federal and State law in my opinion further supports the position that the General Assembly meant the

Honorable Loren S. Golden - 7.

test of compliance with Federal safety regulations under section 13-114 to be an ongoing one. It seems unlikely that the same legislature that felt considerations of public safety required semi-annual vehicle inspection under Illinois law, would think these same considerations served by a one time determination of compliance with Federal rules.

Certainly the Interstate Commerce Commission's determination of "fitness" based on a carrier's past safety record is no guarantee of future adherence to Federal safety regulations. In addition, given the absence of periodic inspection in the Federal system, it is not likely that the General Assembly intended to rely on Federal enforcement alone as adequate assurance of continuing compliance with the Federal regulations.

It is a generally accepted tenet of statutory construction that where a statute is uncertain and susceptible of more than one construction, reference may be had to other statutes on related subjects, even though not strictly in pari materia. (Bergin v. Bd. of Trustees of the Teachers' Retirement System, 31 Ill. 2d 566.) Applying that principle

Honorable Loren S. Golden - 8.

here yet another indicia of the General Assembly's intent can be derived by construing the term "compliance" contained in section 13-114 in light of the provisions of section 13-101 of The Illinois Vehicle Code. (Ill. Rev. Stat. 1973, ch. 95 1/2, par. 13-101.) Section 13-101 reads in pertinent part:

"The passing of the safety test shall not be a bar at any time to prosecution for operating a second division vehicle which is unsafe as determined by the standards prescribed in this Chapter."

The quoted portion of section 13-101 evidences a clear legislative policy in favor of the continuing enforcement of motor carrier safety standards. Even when an official safety certificate is granted under Illinois law, a carrier is subject to prosecution for subsequent violations of State safety regulations rendering the vehicle unsafe. It seems reasonable to conclude that this policy applies equally to the question of compliance with Federal safety standards under section 13-114.

It is my opinion therefore that a carrier in possession

Honorable Loren S. Golden - 9.

of an Interstate Commerce Commission sticker may nonetheless be prosecuted under sections 13-114 and 13-111 for failure at any time to comply with the Federal motor carrier safety regulations.

Very truly yours,

A T T O R N E Y G E N E R A L