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Please pay attention:

1. A DRIVER LICENSE IS NOT REQUIRED TO DRIVE AUTOMOBILES”...
2. HOWEVER...
3. A LICENSE IS REQUIRED TO OPERATE “MOTOR VEHICLES”...

———————————>;

3 FACTS TO CONSIDER:

1. WHAT IS A MOTOR VEHICLE?
The term “motor vehicle” means: every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purpose on the highways in the transportation of passengers, passengers and property, or property or cargo. U.S. Code Title 18 Section 31 Paragraph 6.
2. WHAT DOES “USED FORCOMMERCIAL PURPOSES” MEAN?
The term “Used for commercial purposes” means: “the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit. U.S. Code Title 18 Section 31 Paragraph 10.
3. TO BE ABLE TO DRIVE YOUR AUTOMOBILE ON THE HIGHWAYS WITHOUT A DRIVER LICENSE IS YOUR CONSTITUTIONAL RIGHT.
”The right of the citizen to travel upon the public highways and to transport his property thereon, either by carriage or by automobile, is not a mere privilege which a city may prohibit or permit at will, but a common law right which he has under the right to life, liberty, and the pursuit of happiness” Thompson v. Smith.

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As shown from the text of the statute reprinted in the appendix, the state has

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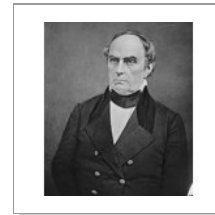
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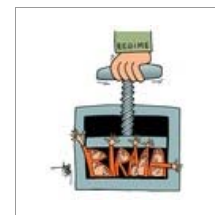
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jurisdiction only over commercial operators and corporations. Free people can NOT have their right to travel regulated by their servants. The forgotten legal maxim is that free people have a right to travel on the roads which are provided by their servants for that purpose, using ordinary transportation of the day. Licensing cannot be required of free people, because taking on the restrictions of a license requires the surrender of a right. The driver's license can be required of people who use the highways for trade, commerce, or hire; that is, if they earn their living on the road, and if they use extraordinary machines on the roads. If you are not using the highways for profit, you cannot be required to have a driver's license.

If ever a judge understood the public's right to use the public roads, it was Justice Tolman of the Supreme Court of the State of Washington. Justice Tolman stated:

"Complete freedom of the highways is so old and well established a blessing that we have forgotten the days of the Robber Barons and toll roads, and yet, under an act like this, arbitrarily administered, the highways may be completely monopolized, if, through lack of interest, the people submit, then they may look to see the most sacred of their liberties taken from them one by one, by more or less rapid encroachment." Robertson vs. Department of Public Works, 180 Wash 133, 147.

The words of Justice Tolman ring most prophetically in the ears of Citizens throughout the country today as the use of the public roads has been monopolized by the very entity which has been empowered to stand guard over our freedoms, i.e., that of state government.

RIGHTS

The "most sacred of liberties" of which Justice Tolman spoke was personal liberty.

The definition of personal liberty is:

"Personal liberty, or the Right to enjoyment of life and liberty, is one of the fundamental or natural Rights, which has been protected by its inclusion as a guarantee in the various constitutions, which is not derived from, or dependent on, the U.S. Constitution, which may not be submitted to a vote and may not depend on the outcome of an election. It is one of the most sacred and valuable Rights, as sacred as the Right to private property ... and is regarded as inalienable." 16 C.J.S., Constitutional Law, Sect.202, p.987

This concept is further amplified by the definition of personal liberty:

"Personal liberty largely consists of the Right of locomotion – to go where and when one pleases – only so far restrained as the Rights of others may make it necessary for the welfare of all other citizens. The Right of the Citizen to travel upon the public highways and to transport his property thereon, by horsedrawn carriage, wagon, or automobile, is not a mere privilege which may be permitted or prohibited at will, but the common Right which he has under his Right to life, liberty, and the pursuit of happiness. Under this Constitutional guarantee one may, therefore, under normal conditions, travel at his inclination along the public highways or in public places, and while conducting himself in an orderly and decent manner, neither interfering with nor disturbing another's Rights, he will be protected, not only in his person, but in his safe conduct." II Am.Jur. (1st) Constitutional Law, Sect.329, p.1135

and further ...

"Personal liberty — consists of the power of locomotion, of changing situations, of removing one's person to whatever place one's inclination may direct, without imprisonment or restraint unless by due process of law." Bovier's Law Dictionary, 1914 ed., Black's Law Dictionary, 5th ed.; Blackstone's Commentary 134; Hare, Constitution__Pg. 777

Justice Tolman was concerned about the State prohibiting the Citizen from the "most sacred of his liberties," the Right of movement, the Right of moving one's self from place to place without threat of imprisonment, the Right to use the public roads in the ordinary course of life.

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When the State allows the formation of a corporation it may control its creation by establishing guidelines (statutes) for its operation (charters). Corporations who use the roads in the course of business do not use the roads in the ordinary course of life. There is a difference between a corporation and an individual. The United States Supreme Court has stated:

"...We are of the opinion that there is a clear distinction in this particular between an individual and a corporation, and that the latter has no right to refuse to submit its books and papers for examination on the suit of the State. The individual may stand upon his Constitutional Rights as a Citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the State or to his neighbors to divulge his business, or to open his doors to investigation, so far as it may tend to incriminate him. He owes no such duty to the State, since he receives nothing therefrom, beyond the protection of his life, liberty, and property. His Rights are such as the law of the land long antecedent to the organization of the state, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his Rights are the refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under warrant of law. He owes nothing to the public so long as he does not trespass upon their rights.

"Upon the other hand, the corporation is a creature of the state. It is presumed to be incorporated for the benefit of the public. It receives certain special privileges and franchises, and holds them subject to the laws of the state and the limitations of its charter. Its rights to act as a corporation are only preserved to it so long as it obeys the laws of its creation. There is a reserved right in the legislature to investigate its contracts and find out whether it has exceeded its powers. It would be a strange anomaly to hold that the State, having chartered a corporation to make use of certain franchises, could not in exercise of its sovereignty inquire how those franchises had been employed, and whether they had been abused, and demand the production of corporate books and papers for that purpose." Hale vs. Hinkel, 201 US 43, 74-75

Corporations engaged in mercantile equity fall under the purview of the State's admiralty jurisdiction, and the public at large must be protected from their activities, as they (the corporations) are engaged in business for profit.

"...Based upon the fundamental ground that the sovereign state has the plenary control of the streets and highways in the exercise of its police power (see police power, infra.), may absolutely prohibit the use of the streets as a place for the prosecution of a private business for gain. They all recognize the fundamental distinction between the ordinary Right of the Citizen to use the streets in the usual way and the use of the streets as a place of business or a main instrumentality of business for private gain. The former is a common Right, the latter is an extraordinary use. As to the former, the legislative power is confined to regulation, as to the latter, it is plenary and extends even to absolute prohibition. Since the use of the streets by a common carrier in the prosecution of its business as such is not a right but a mere license of privilege." Hadfield vs. Lundin, 98 Wash 516

It will be necessary to review early cases and legal authority in order to reach a lawfully correct theory dealing with this Right or "privilege." We will attempt to reach a sound conclusion as to what is a "Right to use the road" and what is a "privilege to use the road". Once reaching this determination, we shall then apply those positions to modern case decision.

"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." Miranda vs. Arizona, 384 US 436, 491

and ...

"The claim and exercise of a constitutional Right cannot be converted into a crime." Miller vs. U.S., 230 F. 486, 489

and ...



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"There can be no sanction or penalty imposed upon one because of this exercise of constitutional Rights." Snerer vs. Cullen, 481 F. 946

Streets and highways are established and maintained for the purpose of travel and transportation by the public. Such travel may be for business or pleasure.

"The use of the highways for the purpose of travel and transportation is not a mere privilege, but a common and fundamental Right of which the public and the individual cannot be rightfully deprived." Chicago Motor Coach vs. Chicago, 169 NE 22; Ligare vs. Chicago, 28 NE 934; Boon vs. Clark, 214 SSW 607; 25 Am.Jur. (1st) Highways Sect.163

and ...

"The Right of the Citizen to travel upon the public highways and to transport his property thereon, either by horse drawn carriage or by automobile, is not a mere privilege which a city can prohibit or permit at will, but a common Right which he has under the right to life, liberty, and the pursuit of happiness." Thompson vs. Smith, 154 SE 579

So we can see that a Citizen has a Right to travel upon the public highways by automobile and the Citizen cannot be rightfully deprived of his Liberty. So where does the misconception that the use of the public road is always and only a privilege come from?

"... For while a Citizen has the Right to travel upon the public highways and to transport his property thereon, that Right does not extend to the use of the highways, either in whole or in part, as a place for private gain. For the latter purpose, no person has a vested right to use the highways of the state, but is a privilege or a license which the legislature may grant or withhold at its discretion." State vs. Johnson, 243 P. 1073; Cummins vs. Homes, 155 P. 171; Packard vs. Banton, 44 S.Ct. 256; Hadfield vs. Lundin, 98 Wash 516

Here the court held that a Citizen has the Right to travel upon the public highways, but that he did not have the right to conduct business upon the highways. On this point of law all authorities are unanimous.

"Heretofore the court has held, and we think correctly, that while a Citizen has the Right to travel upon the public highways and to transport his property thereon, that Right does not extend to the use of the highways, either in whole or in part, as a place of business for private gain." Willis vs. Buck, 263 P. 1 982; Barney vs. Board of Railroad Commissioners, 17 P.2d 82

and ...

"The right of the citizen to travel upon the highway and to transport his property thereon, in the ordinary course of life and business, differs radically and obviously from that of one who makes the highway his place of business for private gain in the running of a stagecoach or omnibus." State vs. City of Spokane, 186 P. 864

What is this Right of the Citizen which differs so "radically and obviously" from one who uses the highway as a place of business? Who better to enlighten us than Justice Tolman of the Supreme Court of Washington State? In *State vs. City of Spokane, supra*, the Court also noted a very "radical and obvious" difference, but went on to explain just what the difference is:

"The former is the usual and ordinary right of the Citizen, a common right to all, while the latter is special, unusual, and extraordinary."

and ...

"This distinction, elementary and fundamental in character, is recognized by all the authorities." State vs. City of Spokane, supra.

This position does not hang precariously upon only a few cases, but has been proclaimed by an impressive array of cases ranging from the state courts to the

federal courts.

“the right of the Citizen to travel upon the highway and to transport his property thereon in the ordinary course of life and business, differs radically and obviously from that of one who makes the highway his place of business and uses it for private gain in the running of a stagecoach or omnibus. The former is the usual and ordinary right of the Citizen, a right common to all, while the latter is special, unusual, and extraordinary.” Ex Parte Dickey, (Dickey vs. Davis), 85 SE 781

and ...

“The right of the Citizen to travel upon the public highways and to transport his property thereon, in the ordinary course of life and business, is a common right which he has under the right to enjoy life and liberty, to acquire and possess property, and to pursue happiness and safety. It includes the right, in so doing, to use the ordinary and usual conveyances of the day, and under the existing modes of travel, includes the right to drive a horse drawn carriage or wagon thereon or to operate an automobile thereon, for the usual and ordinary purpose of life and business.” Thompson vs. Smith, supra.; Teche Lines vs. Danforth, Miss., 12 S.2d 784

There is no dissent among various authorities as to this position. (See *Am. Jur. [1st] Const. Law, 329 and corresponding Am. Jur. [2nd].*)

“Personal liberty – or the right to enjoyment of life and liberty – is one of the fundamental or natural rights, which has been protected by its inclusion as a guarantee in the various constitutions, which is not derived from nor dependent on the U.S. Constitution. ... It is one of the most sacred and valuable rights [remember the words of Justice Tolman, supra.] as sacred as the right to private property ... and is regarded as inalienable.” 16 C.J.S. Const. Law, Sect.202, Pg. 987

As we can see, the distinction between a “Right” to use the public roads and a “privilege” to use the public roads is drawn upon the line of “using the road as a place of business” and the various state courts have held so. But what have the U.S. Courts held on this point?

“First, it is well established law that the highways of the state are public property, and their primary and preferred use is for private purposes, and that their use for purposes of gain is special and extraordinary which, generally at least, the legislature may prohibit or condition as it sees fit.” Stephenson vs. Rinford, 287 US 251; Pachard vs Banton, 264 US 140, and cases cited; Frost and F. Trucking Co. vs. Railroad Commission, 271 US 592; Railroad commission vs. Inter-City Forwarding Co., 57 SW.2d 290; Parlett Cooperative vs. Tidewater Lines, 164 A. 313

So what is a privilege to use the roads?

By now it should be apparent even to the “learned” that an attempt to use the road as a place of business is a privilege.

The distinction must be drawn between:

1. Traveling upon and transporting one’s property upon the public roads, which is our Right; and ...
2. Using the public roads as a place of business or a main instrumentality of business, which is a privilege.
3. “[The roads] ... are constructed and maintained at public expense, and no person therefore, can insist that he has, or may acquire, a vested right to their use in carrying on a commercial business.” *Ex Parte Sterling, 53 SW.2d 294; Barney vs. Railroad Commissioners, 17 P.2d 82; Stephenson vs. Binford, supra.*

“When the public highways are made the place of business the state has a right to regulate their use in the interest of safety and convenience of the public as well as the preservation of the highways.” Thompson vs. Smith, supra.

"[The state's] right to regulate such use is based upon the nature of the business and the use of the highways in connection therewith." Ibid.

"We know of no inherent right in one to use the highways for commercial purposes. The highways are primarily for the use of the public, and in the interest of the public, the state may prohibit or regulate ... the use of the highways for gain." Robertson vs. Dept. of Public Works, supra.

There should be considerable authority on a subject as important as this deprivation of the liberty of the individual "using the roads in the ordinary course of life and business." However, it should be noted that extensive research has not turned up one case or authority acknowledging the state's power to convert the individual's right to travel upon the public roads into a "privilege."

Therefore, it is concluded that the Citizen does have a "Right" to travel and transport his property upon the public highways and roads and the exercise of this Right is not a "privilege."

DEFINITIONS

In order to understand the correct application of the statute in question, we must first define the terms used in connection with this point of law. As will be shown, many terms used today do not, in their legal context, mean what we assume they mean, thus resulting in the misapplication of statutes in the instant case.

AUTOMOBILE AND MOTOR VEHICLE

There is a clear distinction between an automobile and a motor vehicle. An automobile has been defined as:

"The word `automobile' connotes a pleasure vehicle designed for the transportation of persons on highways." American Mutual Liability Ins. Co., vs. Chaput, 60 A.2d 118, 120; 95 NH 200

While the distinction is made clear between the two as the courts have stated:

"A motor vehicle or automobile for hire is a motor vehicle, other than an automobile stage, used for the transportation of persons for which remuneration is received." International Motor Transit Co. vs. Seattle, 251 P. 120

The term `motor vehicle' is different and broader than the word `automobile.'" City of Dayton vs. DeBrosse, 23 NE.2d 647, 650; 62 Ohio App. 232

The distinction is made very clear in *Title 18 USC 31*:

1. *Paragraph 6: "Motor vehicle" means every description or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, or passengers and property.*
2. *Paragraph 10: "Used for commercial purposes" means the carriage of persons or property for any fare, fee, rate, charge or other considerations, or directly or indirectly in connection with any business, or other undertaking intended for profit.*

Clearly, an automobile is private property in use for private purposes, while a motor vehicle is a machine which may be used upon the highways for trade, commerce, or hire.

TRAVEL

The term "travel" is a significant term and is defined as:

"The term `travel' and `traveler' are usually construed in their broad and general sense ... so as to include all those who rightfully use the highways viatically (when being reimbursed for expenses) and who have occasion to pass over them for the purpose of business, convenience, or pleasure." 25 Am.Jur. (1st) Highways, Sect.427, Pg. 717

“Traveler — One who passes from place to place, whether for pleasure, instruction, business, or health.” Lockett vs. State, 47 Ala. 45; Bovier’s Law Dictionary, 1914 ed., Pg. 3309

“Travel — To journey or to pass through or over; as a country district, road, etc. To go from one place to another, whether on foot, or horseback, or in any conveyance as a train, an automobile, carriage, ship, or aircraft; Make a journey.”Century Dictionary, Pg. 2034

1. Therefore, the term “travel” or “traveler” refers to one who uses a conveyance to go from one place to another, and included all those who use the highways as a matter of Right.
2. Notice that in all these definitions, the phrase “for hire” never occurs. This term “travel” or “traveler” implies, by definition, one who uses the road as a means to move from one place to another.
3. Therefore, one who uses the road in the ordinary course of life and business for the purpose of travel and transportation is a traveler.

DRIVER

The term “driver” in contradistinction to “traveler,” is defined as:

“Driver — One employed in conducting a coach, carriage, wagon, or other vehicle ...” Bovier’s Law Dictionary, 1914 ed., Pg. 940

Notice that this definition includes one who is “employed” in conducting a vehicle. It should be self-evident that this individual could not be “traveling” on a journey, but is using the road as a place of business.

OPERATOR

Today we assume that a “traveler” is a “driver,” and a “driver” is an “operator.” However, this is not the case.

“It will be observed from the language of the ordinance that a distinction is to be drawn between the terms ‘operator’ and ‘driver’; the ‘operator’ of the service car being the person who is licensed to have the car on the streets in the business of carrying passengers for hire; while the ‘driver’ is the one who actually drives the car. However, in the actual prosecution of business, it was possible for the same person to be both ‘operator’ and ‘driver.’” Newbill vs. Union Indemnity Co., 60 SE.2d 658

To further clarify the definition of an “operator” the court observed that this was a vehicle “for hire” and that it was in the business of carrying passengers.

This definition would seem to describe a person who is using the road as a place of business, or in other words, a person engaged in the “privilege” of using the road for gain.

This definition, then, is a further clarification of the distinction mentioned earlier, and therefore:

1. Traveling upon and transporting...

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