

**OPINION
48-217**

January 6, 1948 (OPINION)

SCHOOLS

RE: School Buses - Seat Transportation Tax Not Applicable

This is in reply to your letter of January 3 addressed to this office making inquiry as to whether an additional license fee of \$8.00 per pupil as provided by section 39-0451 must be paid by operators of school busses transporting more than seven pupils.

Section 39-0451, supra, is part of the general law governing motor vehicles used in commercial transportation of passengers and is part of chapter 179 of the 1927 Session Laws. The operation of school busses evidently was not contemplated when said law was enacted. The law authorizing school boards to enter into contracts for transportation of pupils to the schools of the state was enacted 1931 by chapter 238 Session Laws of that year.

As already pointed out section 39-0451 has reference to and deals with busses used for commercial travel and transportation of passengers in busses used by common carriers.

On the other hand, the law dealing with the transportation of pupils to schools of the state in busses under contracts with the school boards or boards of education is a special law dealing only with transportation of pupils and must be considered separately and apart from commercial travel. To hold that a school bus should be taxed \$8.00 for each pupil in excess of seven would be, in effect, to tax the school district since no owner of a bus used only for transporting of pupils would pay this tax as an individual charge, but would necessarily have to charge the same to the school district. It would in many cases amount to a considerable sum since many school busses carry as many as 30 or 35 pupils and \$8.00 per pupil in excess of seven would, therefore, amount to considerable sum which would in effect be a tax or charge against the school district.

It is, therefore, the opinion of this office that said section 39-0451 has no reference to and does not include busses solely for the transportation of pupils to the public schools of this state.

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