

INTERSTATE RECIPROCITY IN THE REGULATION AND TAXATION OF MOTOR VEHICLES

FRED J. MYERS, *Highway Economist, Public Roads Administration*

SYNOPSIS

The huge increase in the interstate movement of freight and passengers by motor vehicle during and subsequent to the recent war years has emphasized the need for uniformity in motor-vehicle laws and for reciprocity between States.

Today, such commerce is moved under remarkably diverse regulatory and tax laws which are not in the best interests of the public. In certain instances, restrictions exist that create inefficient and uneconomical transportation by a media which cannot be denied an integral place in the over-all transportation system of the Nation.

A study recently completed by the Public Roads Administration for the American Association of Motor Vehicle Administrators crystallizes the problem and indicates the logical solution.

Results of the study show that the problem has been created and nurtured by the adoption and retention of nonuniform regulatory laws, by the philosophy of States concerning the operation of nonresident vehicles, and, to a lesser degree, by certain inefficient administrative policies and practices.

A solution to the problem must, therefore, follow the same pattern. However, in addition to uniformity in laws and to liberality in nonresident policy, there is a need for tax requirements that are basically consistent even though they cannot be uniform; for uniform definitions of the terms "resident" and "nonresident"; for broader reciprocal agreements between States; and for the centralized administration of laws pertaining to nonresidents.

The problem of reciprocity between States on matters pertaining to motor-vehicle regulation and taxation is not new. It became real as soon as State boundaries were bridged by highways of a type that allowed the interstate movement of vehicles in volume. However, the importance of the problem is relatively new, having developed with the growth of motor-vehicle use, especially the use of trucks and busses.

The need for reciprocity first became prominent in the early 30's when so-called motor-vehicle "border wars" occurred at some State boundaries. By the end of that decade, the problem had become critical. The use of motor vehicles in interstate commerce had grown to the point where compliance with the numerous and diverse laws of the different States often resulted in inefficient and uneconomical transportation. Public concern with the problem had also grown. The Dirksen bill submitted to Congress in 1939 proposed that Federal aid to the States for highway purposes be contingent upon the adoption of uniform motor-vehicle regulations, and in 1941 the Wheeler-Lea bill proposed Federal

regulation of sizes and weights of motor vehicles used in interstate commerce. Neither proposal was adopted, but their introduction portends a possible development.

During the recent war years, most States, admitting the need for unrestricted flow of war materials between States, liberalized their motor-vehicle laws to allow this objective to be accomplished. Unfortunately, this liberalization was not intended to be permanent. Generally, it was made on a temporary basis for the duration of the war or for a limited and specified period thereafter, with the result that the cessation of hostilities signalled the return to prewar laws and regulations.

Today, the problem is more critical than at any time in the past. Recent legislation has allowed gains to be made, but these gains have been more than offset by the increase in interstate commerce by motor vehicle. Furthermore, the condition may become worse; there is every indication that the trend of commercial vehicle use started during the war has become permanent.

It is not necessary to dwell upon the character of the interstate problem. All who are

familiar in any way with motor-vehicle transportation are acquainted with its form, its magnitude, and its effect. It is adequate to mention in passing that a restriction to interstate commerce arises whenever a State or local law or regulation results in an unreasonable obstruction to or discriminates against the free flow of such commerce. As far as motor-vehicle transportation is concerned, restrictions may arise from diverse State limitations on types of equipment and its size and weight; or restrictions may be created when multiple-State taxation of the equipment and service reaches the level where the cost is unreasonable when compared with the taxes on the same service wherein no State boundaries are crossed. Thus, we have the problem in general.

Of more importance is a solution to the problem, and in this connection, the findings of a study recently completed by the Public Roads Administration for the Reciprocity Committee of the American Association of Motor Vehicle Administrators may be of interest.

The results of this study indicate that two approaches must be followed. First, and probably most important, the existing diversity in State motor-vehicle laws should be eliminated insofar as possible. Second, reciprocity on other laws should be furthered by the adoption of a more liberal philosophy toward nonresidents, and through more efficient methods of administration.

Obviously, not all motor-vehicle laws can be uniform in all respects. Laws that are designed primarily to raise revenue for highways must remain different in magnitude if not in form. However, there is little justification for nonuniformity in regulatory laws, i.e., those pertaining to vehicle size and weight limitations, equipment requirements, operator's licenses, insurance, including financial responsibility, vehicle inspection, carrier regulation and others.

Any other approach to this phase of the problem would be illogical and unreal. Unfortunately, uniformity in theory is far removed from uniformity in fact. Too many States will refuse to bury their pride by replacing an existing law with one conforming to uniform standards, and we cannot discount entirely the continued efforts of certain interests which favor the adoption or retention of

restrictive laws. Nonetheless, responsibility for a solution to the problem lies with the States. It is not inconceivable that the Federal Government may intervene, but such should be a last resort. Better organized and more active effort by national and local associations of state officials and motor-vehicle user groups could accomplish much.

A similar logical approach to the second phase of the solution was less well defined by the study. As mentioned, interstate commerce by motor vehicles will, in certain instances, continue to be burdened by multiple taxation until a more liberal philosophy toward the nonresident is adopted.

An attempt was made to determine and evaluate the reasons why more reciprocal privileges are not extended between States. However, as might be expected, State officials were generally reluctant to commit themselves with respect to general State policy and the motives underlying legislation affecting the nonresident. From the meager information submitted, it appears that policy has been influenced by considerations such as the relative benefits to be derived from reciprocity, the attitudes of other States, the encouragement of tourist traffic (in the case of passenger cars), highway requirements and costs, equalization of highway-user taxes, protection of resident operators from competition, sale and transportation of products grown or manufactured in the State, pressure from interested groups, and other factors less important.

While a qualitative analysis of the philosophy of States on reciprocity was not possible, the analysis of State motor-vehicle laws included in the study reflects the effect of the policies that have been adopted.

The laws of a majority of States include provisions which limit or prohibit entirely the relief that can be extended on certain requirements. It is generally thought, for example, that passenger cars can be operated by a visitor into all States without need for duplicate registration. However, 18 States limit the privilege to periods as brief as 30 days.

Statutory limitations affecting the operation of nonresident commercial vehicles are even more prevalent. While all but one State can extend reciprocal privileges on registration fees, the relief is conditioned by type of operation, class of carrier, and other factors.

Thirty States out of 41 that provided data reported no relief to common and contract carrier trucks operated in intrastate haul. Busses and private carrier trucks are so restricted in 28 and 26 States, respectively. Wholly interstate operations are, of course, less often restricted, but six reported that registration is required of busses; three of common and contract carrier trucks; and one for private carriers.

The pattern is similar for operating authority and transportation taxes. Operating authority is required for some class of carrier in 46 States; 15 can reciprocate. Transportation taxes are levied in 33 States; only 9 can reciprocate.

In addition to the effect of policy as reflected by statutory limitations, several other factors operate to limit the relief made available to the nonresident. In order of their importance, they are: (1) differences in regulatory and tax requirements; (2) definition of "resident"; (3) type of relief; and (4) administrative authority and practices.

Since it is reasonable for a State to obtain a more or less equal transfer of privileges when making reciprocal arrangements, differences in requirements often create a breakdown in negotiations. Under the laws of numerous States, if interpreted literally, the authorities have no choice but to obtain equal or greater privileges. The laws of two States actually require retaliation through the imposition of taxes equivalent to those collected in the home State of the nonresident; and several others collect fees in an amount adequate to offset any differential.

Until all States have adopted uniform definitions of the terms "resident" and "non-resident," conflicts in their meaning will remain a disturbing factor in efforts to promote reciprocity. Differences in existing definitions create what amount to further statutory limitations on available relief. For example, a State may require registration of a non-resident vehicle within a specified period following certain deeds on the part of the owner, such as accepting employment or establishing a place of business; and the owner, in effect, becomes a resident of the State for purposes of motor-vehicle regulation and taxation. Requirements of this character are not necessarily unreasonable, but when they vary from State to State, it is inevitable

that the more restrictive provisions will form the basis of reciprocal agreements between States.

Results of the study prove conclusively that the form of relief adopted by some States is a definite factor in the problem. Thirty-one States grant exemptions to non-residents covering one or more requirements; 14 issue temporary permits; and all but one extend reciprocal privileges, either automatically or through agreements. Obviously, numerous States use more than one form.

Fundamentally, an exemption is the best form of relief. The provisions are applicable to nonresidents from all States; they are specific and definite; and no arrangement between States is necessary. The same is true of temporary permits, although this form has a certain nuisance value created by the need for obtaining the permit. However, as used today, exemptions and permits do not seem adequate since the valid period is usually limited. In some cases it is restricted to a single trip or to a few hours.

Likewise, differences in the characteristics of the two forms of reciprocity lead one to conclude that reciprocal agreements between individual States result in the best exchange of privilege. Automatic reciprocity, or that form which offers privileges to a nonresident that are essentially the same as offered by the home State, is good in theory but unworkable in practice. Those States which use automatic reciprocity are placed in a position of awaiting the pleasure of another State that can make an offer; they cannot initiate proposals. When two States, each of which offers automatic reciprocity, attempt to determine interstate privileges, a stalemate will result unless a literal interpretation of authority is discarded. The efficiency of automatic reciprocity versus reciprocal agreements is reflected in results of the study, in that those States using the automatic type reported the relief they grant to other States in about 30 percent of the cases while the others gave the information in 90 percent of the cases.

Findings of the study supported previous contention that the existing dualism in the administration of motor-vehicle laws is a factor in the treatment of nonresidents. Except in 10 States where reciprocity boards or commissions function, nonresident laws

are administered generally by the authority for the basic resident law on the same regulation or tax. Thus, on the average, four State departments administer reciprocity or other relief, and while the evidence is not overly conclusive, inconsistent interpretation of laws, different attitudes on relief, and, possibly, jealousy of authority have contributed to the failure to reach agreements with other States.

In conclusion, therefore, it may be said that a solution to the problem lies in: (1) Uniformity in all motor-vehicle laws wherein nonuniformity cannot be justified; (2) reciprocity on other laws under (a) more liberal policies toward nonresidents, wherein statutory limitations on relief are eliminated entirely or made consistent in all States, (b) a revamping of motor-vehicle laws so that tax requirements in each State are basically consistent even though they cannot be uniform, (c) uniform definitions of the terms "resident" and "nonresident" that will include specific reference to all conditions, deeds, and intentions requiring compliance with State laws, (d) reciprocal agreements between States, and (e) centralized administration of relief through unification of the administration of motor-vehicle laws, through the establishment of reciprocity boards or commissions, or through the adoption of laws requiring that proposed reciprocal agreements be cleared by the heads of all interested departments of a State.

Serious consideration should also be given to a method of motor-vehicle taxation under which required revenue would be collected more in proportion to highway use. Existing methods and tax schedules are seemingly adequate for conditions in individual States, but they are not adequate for the equitable taxation of vehicles operated in more than one State. Apparently what is needed is a method under which vehicles in all States

would be licensed on a uniform basis, such as the proposed manufacturers' uniform gross weight rating, at a fee no greater than that needed to defray administrative costs. A vehicle so rated would be taxed in any given State at a rate per mile of operation fixed by that State. In another State the rate would be different, but it would be similarly based on miles of operation in the State. Such a system of taxation would produce substantial equity between resident and nonresident vehicles.

So far, such a plan is nothing more than theory. We do not have a uniform basis for vehicle taxation. Problems of enforcement and administration of such a tax plan may be too great to allow its use. However, a new Oregon law, which becomes effective January 1, 1948, may provide some of the answers. After that date, regulated carriers operating in Oregon will be registered at a flat fee of 5 dollars. Highway use will then be taxed at rates ranging from 6 to 36.5 mills per vehicle-mile on the basis of a declared maximum gross weight against which the motor-fuel tax component is credited. Thus, except for 5 dollars in addition to the home-State registration fee, the nonresident and the resident operator of regulated carriers will be taxed alike for use of Oregon highways.

The operation of the new Oregon law should be followed closely. If it is proved workable, enforceable, administratively feasible, and applicable to all carriers, it may offer a promising solution to the problem.

Regardless of the solution to be adopted, action in the future must be more progressive than in the past. If it is agreed that interstate commerce by motor vehicle has a definite and integral place in our local as well as national economy, the heritage of inconsistent, and sometimes obsolete, motor-vehicle laws must be heavily discounted in plans for the future.