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Leones Law

Right To Travel

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DEFINITIONS

"The term '**motor vehicle**' is different and broader than the word '**automobile**.'"

City of Dayton vs. DeBrosse, 23 NE.2d 647, 650.

The term "**motor vehicle**" means, every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo.

18 U.S.C. Sec. 31

The term "**used for commercial purposes**"
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.

18 U.S.C. Sec. 31

The term "**automobile**" means, a 4-wheeled vehicle that is propelled by fuel, or by alternative fuel manufactured primarily for the use on public streets, roads, and highways and rated at less than 10,000 pounds gross vehicle weight.

49 U.S.C. Sec. 32901

The term "**automobile**" means, includes an automobile rated at not more than 8,500 pounds gross vehicle weight regardless of whether the Secretary of Transportation has applied this chapter to the automobile under section 32901 of this title.

49 U.S.C. Sec. 32908

"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.

Automobile

A vehicle for the carriage of passengers or freight, propelled by its own motor. It has been held to be a carriage, not a machine.

Bouvier's Law Dictionary, 1914 Edition

A vehicle for the transportation of persons or property on the highway, carrying its own motive power and not operated upon fixed tracks.

Black's Law Dictionary 4th Edition

Driver

One employed in conducting a coach, carriage, wagon, or other vehicle...

Bouvier's Law Dictionary 6th Edition

One employed in conducting or operating a coach, carriage, wagon, or other vehicle...

Black's Law Dictionary 4th Edition

Driver's License

The state-issued certificate authorizing a person to operate a motor vehicle.

Black's Law Dictionary 9th Edition

Commerce

In a narrower sense, commerce signifies any reciprocal agreements between two persons, by which one delivers to the other a thing, which the latter accepts, and for which he pays a consideration; if the consideration be money, it is called a sale; if any other thing than money, it is called exchange or barter.

Bouvier's Law Dictionary 6th Edition

The exchange of goods, productions, or property of any kind.

Black's Law Dictionary 4th Edition

Highway

A passage or road through the country, or some parts of it, for the use of the people. The term highway is said to be a generic name for all kinds of public ways.

Bouvier's Law Dictionary 6th Edition

An easement acquired by the public in the use of a road or way for thoroughfare. A free and public roadway, or street; one which every person has the right to use.

Black's Law Dictionary 4th Edition

License

1. A permission, usu. revocable, to commit some act that would otherwise be unlawful; esp., an agreement (not amounting to a lease or profit á prendre) that is unlawful for the licensee to enter the licensor's land to do some act that would otherwise be illegal, such as hunting game. See SERVITUDE (1).

“[A] license is an authority to do a particular act, or series of acts, upon another’s land, without possessing any estate therein. It is founded in personal confidence, and is not assignable, nor within the statutes of frauds.”

2 James Kent, Commentaries on American Law * 452-53 (George Comstock ed., 11th ed. 1866).

2. The certificate or document evidencing such permission. – **license**, vb.

Black’s Law Dictionary 9th Edition

Licensee

One to whom a license is granted. 2. One who has to enter or use another’s premises, but only for one’s own purposes and not for the occupier’s benefit. • The occupier has a duty to warn the licensee of any dangerous conditions known to the occupier but unknown to the licensee. An example of a licensee is a social guest. Cf. INVITEE; TRESPASSER.

Black’s Law Dictionary 9th Edition

Licensee by permission.

One who has the owner's permission or passive consent to enter the owner's premises for one's own convenience, curiosity, or entertainment.

Black's Law Dictionary 9th Edition

Licensor

One who grants a license to another. – Also spelled licenser.

Black's Law Dictionary 9th Edition

Motor Vehicle

The term "motor vehicles," although sometimes regarded as synonymous with or limited to "automobiles," often has a broader meaning, and includes not only ordinary automobiles, but also motorbuses and trucks...

Black's Law Dictionary 4th Edition

Operating Motor Vehicle

Exercising control over the vehicle, although not at the time in the driver's seat.

Ballentines Law Dictionary, 3rd Edition

Operator

"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.

Operator For Hire

Any person who owns, controls, operates or manages any motor vehicle for hire for the transportation of persons or property on any public highway, or any person who engages in the business of leasing motor vehicles for a compensation for the transportation of persons or property upon the public highways.

Ballentines Law Dictionary, 3rd Edition

Permit

A certificate evidencing permission; a license.

Black's Law Dictionary 9th Edition

Permittee

One who has permission to do something.

Black's Law Dictionary 9th Edition

Public

By the term the public, is meant the whole body politic, or all the citizens of the state; sometimes it signifies the inhabitants of a particular place; as, the New York public.

Bouvier's Law Dictionary 6th Edition

Common to all or many; general; open to common use.

Black's Law Dictionary 4th Edition

Public property

This term is commonly used as a designation of those things which are *publici juris*, (q. v.,) and therefore considered as being owned by "the public," the entire state or community, and not restricted to the dominion of a private person.

Black's Law Dictionary 4th Edition

Traffic

Commerce, trade, sale or exchange of merchandise, bills, money and the like.

Bouvier's Law Dictionary 6th Edition

Commerce; trade; sale or exchange of merchandise, bills, money, and the like. The passing of goods or commodities from one person to another for an equivalent in goods or money.

Black's Law Dictionary 4th Edition

Traveler

One who passes from place to place, whether for pleasure, instruction, business, or health.

Bouvier's Law Dictionary, 1914 Edition

One who passes from place to place, whether for pleasure, instruction, business or health.

Black's Law Dictionary 4th Edition

U.S. COURT DECISIONS

'Right to Travel'

"The right to travel is a well-established common right that does not owe its existence to the federal government. It is recognized by the courts as a natural right."

Schactman v. Dulles 96 App DC 287, 225 F2d 938, at 941.

"The use of the highway for the purpose of travel and transportation is not a mere privilege, but a common fundamental right of which the public and individuals cannot rightfully be deprived."

Chicago Motor Coach v. Chicago, 169 NE 221.

"The right to travel is a part of the liberty of which the citizen cannot be deprived without due process of law under the Fifth Amendment."

Kent v. Dulles, 357 US 116, 125.

"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.

"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.

"An automobile is not an inherently dangerous vehicle."

MacPherson v Buick Motor Co., 217 NY 382

Cohens vs. Meadow, 89 SE 876

Blair vs. Broadmore, 93 SE 532

U.S. COURT DECISIONS

'Driving is a Privilege'

"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*.

"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."

Barney vs. Railroad Commissioners, 17 P.2d 82.

"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."

Barney vs. Railroad Commissioners, *supra*.

"...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

"Traveling by 'automobile' is a right; driving a 'motor vehicle' is a privilege."

'CONCLUSION'

WITHOUT PREJUDICE

If you look closely at your certificate of title form, usually in small print it will read, “I certify that I will maintain in effect owner’s operator’s security insurance” or something of the like. Therefore your certificate of title is nothing more than a CONTRACT.

If you must sign any of these documents in order to obtain your certificate of title or for any other reason when dealing with a contract you are required to sign in order to obtain evidence of ownership, then you must sign ‘without prejudice’ right above where you leave your signature before you sign the contract.

The term “Without Prejudice” means, without loss of any rights; in a way that does not harm or cancel the legal rights or privileges of a party.

Black’s Law Dictionary 9th Edition

UNDER DURESS

If you look closely at your citation, usually in small print it will read, “Without admitting guilt, I promise to appear as directed herein.” or something of the like. Therefore your citation is nothing more than a CONTRACT.

If you must sign a citation under coercion which is the threatened use of force, such as being detained against your will, then you must sign ‘Under Duress’ right above where you leave your signature before you sign the contract.

The term “duress” means, strictly, the physical confinement of a person or the detention of a contracting party's property.

Black’s Law Dictionary 9th Edition

American Jurisprudence 2d
Volume 51: Licenses and Permits

Section 3 – License as privilege

A license conveys to the licensee a personal privilege, sometimes referred to as a special privilege.

Section 4 – Status of rights conveyed as vested or permanent

A license does not confer a vested, permanent, or absolute right, but only a personal privilege.

Section 5 –Status of license fee – fees as “taxes”

When used in the broad sense, the word “taxes” may include a license fee. Such fees commonly take the form of an imposition on the use or imposition of property, the pursuit of an occupation, business, or calling, or the exercise of a privilege.

- Observation: A distinction must also be made between “taxes” and license fees which are imposed pursuant to the state’s taxing powers.

An “excise tax,” to the extent that it is within a legislature’s authority to enact, is a tax imposed upon engaging in an occupation.

Section 8 – Effect of type of person on whom fee imposed

Similarly, a tax upon all persons engaging in the business of acquiring notes or other forms of indebtedness secured by liens, in the form of mortgages, retain-title or purchase contracts, or other liens.

Section 9 - Construction of laws

Courts cannot construe a statute or confer implicit authority to license an occupation when such a construction would contravene the legislature's apparently deliberate failure to explicitly grant such authority.

If the purpose of the licensing statute is not to punish but to protect consumers and the public who deal with members of a particular profession or trade, the statute is considered nonpenal.

Section 27 – State and federal constitutional guaranties,
generally

State and federal constitutional guaranties, where applicable, may be properly invoked to attack or defend against license legislation.

Section 28 – Due process or equal protection

Due process provisions are commonly relied on in a constitutional attack or defense against a licensing statute.

Statutes and regulations imposing licensing requirements have been stricken down as violative of the due process or equal protection guaranties in a number of instances.

Section 69 – Form of organization or entity, generally

Conversely, under the laws of some states, a professional corporation renders its professional services only through licensed individuals.

- Observation: However, a statute may be construed to mandate licensing only where the persons hold themselves out as being engaged in a business which results, at least in part, in providing services to the public.

Section 74 – Business not operated for gain

- Observation: However, a nonprofit corporation or organization may be required to be licensed under a state's regulatory statute.

Section 80 – Agreement to comply with law; surrender of constitutional rights

A political body that has the authority to forbid the exercise of a particular privilege completely may, in general, authorize the exercise of the privilege by issuing a license granted on conditions. Such conditions may not, however, require the applicant or licensee to give up his constitutional rights as a prerequisite to acquiring or maintaining the license. Accordingly, it has been pointed out that even the acceptance of a license issued under state legislation purporting to impose conditions does not require the licensee to respect or comply with conditions in the form of state laws that are repugnant to the United States Constitution.

Section 86 – Security for performance – Insurance

The government's power to regulate a business... Thus, provisions requiring the holder of a license to carry on activities affecting the public safety, health, or welfare, to procure and maintain insurance to cover liability for property damage, personal injury, and death resulting from these activities are valid.

Section 92 – Criminal conviction

A guilty plea may form the basis of a revocation on the basis of a conviction, although it has been ruled that a no contest plea to a crime can not be the basis for a license revocation.

ROADSIDE DETAINMENT

The three rules...

Rule 1:

Lock all doors; do not allow the officer to open a door to your automobile.

Rule 2:

Roll up all windows; slightly roll down driver's side window only enough to communicate and pass paperwork with police officer.

Rule 3:

Refuse to get out of the automobile without a warrant signed by a judge; make sure the warrant is signed by the judge and not left blank or only signed by a clerk.

The ten facts...

Fact 1:

It is illegal for police officers to turn their emergency lights on without there being an actual emergency.

Fact 2:

The term “probable cause” means, a reasonable ground to suspect that a person has committed or is committing a crime or that a place contains specific items connected with a crime. • Under the Fourth Amendment, probable cause - which amounts to more than a bare suspicion but less than evidence that would justify a conviction - must be shown before an arrest warrant or search warrant may be issued.

Black’s Law Dictionary 9th Edition

Fact 3:

Drivers agreed to give identification to police officers when they signed for the driver’s license; however, this only applies to operators of motor vehicles.

Fact 4:

Police officers are required to question if you understand the charge; if you say 'yes' you are admitting jurisdiction.

Fact 5:

Police officers cannot charge anyone; police officers are only a witness for the State and the citation is only a promise to appear to defend against a stated-charge, you have not been criminally charged by merely receiving a citation.

Fact 6:

You must sign the citation with 'Under Duress' above your signature; you are only signing the citation because you are being coerced by the police officers threatened use of force if you do not comply.

Fact 7:

The citation will indicate to wait a few days before reporting to the court; however, you only have a few days to contest the citation.

Fact 8:

If you are going to contest the citation at the court within the limited days, you must have two witnesses with you who can testify under oath you reported to the court and contested the citation.

Fact 9:

Title 42 Section 1983 of the U.S. Code is civil action for deprivation of rights. You can file civil action in federal court under this title if the police officer deprived you of your life, liberty, or property.

Fact 10:

The police officers, court clerks, bailiffs, and local judges are too incompetent to comprehend this information.

COURT FORMS

Waiver of Council:

You are not required by law to sign the waiver of council form even if you will be representing yourself.

Rights Statement:

You are not required by law to sign the rights statement form. If you sign the rights statement form you are claiming that you know and understand your rights which will be used against you if you commit an accident in the court process.

Promise to Appear:

A promise to appear is to get you to do two things (1) come back to court for an arraignment or pre-trial conference which means you are granting jurisdiction; and (2) waive your right to a formal information which is the actual charge and allow the court to proceed on citation and promise to appear alone.

The promise to appear will read in small print: “With knowledge of my rights, I hereby waive the filing of formal information on this case, and I agree that the court may proceed on citation and notice to appear.”

Do **‘NOT’** sign or initial any court forms, all of the forms at the court house are contracts in which you voluntarily consent into being subjected to the courts jurisdiction.

ARRAIGNMENT

Step 1:

Sign in with your name and information, however, do not sign or initial the form or any other forms.

Step 2:

When you are called upon to plea you will be asked to state your name for the court: State your name and that you reserve all of your rights as the ‘natural person’.

Step 3:

When you are asked to enter a plea, demand a copy of the formal information. When provided a copy of the formal information, refuse to enter a plea and claim your innocence, though they will claim ‘innocent’ is not an acceptable plea. They will be forced to enter a ‘not guilty’ plea on your behalf. Meaning you never consented, when you enter a plea, even if a ‘not guilty’ plea, you are consenting to jurisdiction.

Step 4:

Upon the judge's order, sign the promise to appear to come back to a pre-trial conference 'Under Duress' and do '**NOT**' initial the form or any other forms. This means you are not granting jurisdiction and your only promising to return under coercion, which is the threatened use of force.

PRE-TRAIL CONFERENCE

Step 1:

Review your State's rules of criminal procedure and learn how to file a 'Jury Demand' and file a copy of the jury demand with the prosecutors office and file a copy with the court clerk.

Step 2:

The prosecutor will now attempt to plea bargain with you, refuse any deals and 'keep your mouth shut'.

Step 3:

When you are called in the court room the judge will question the prosecutor as to whether an agreement has been made, the prosecutor will respond 'no' and the court will move to set the matter for trial as in 'bench trial' without a jury. You must say 'objection, I filed a jury demand'.

Step 4:

In most States the court will amend the charges down to ‘infractions’ to refuse your right to a trial by jury, however, infractions are listed as criminal and you can obtain a copy of the judges ‘Oath of Office’ to the United States Constitution from the city recorder’s office for a fee prior to pre-trial and use the ‘Oath of Office’ and ‘Sixth-Amendment’ to demand your right to trial by jury. Some judges will acknowledge their ‘Oath of Office’ and set the matter for a jury trial; other judges will commit treason and set the matter for a bench trial.

Step 5: (Bench Trial)

Upon the judge’s order, sign the promise to appear to come back to a bench trial ‘Under Duress’ and do **‘NOT’** initial the form or any other forms. This means you are not granting jurisdiction and your only promising to return under coercion, which is the threatened use of force.

Step 5: (Jury Trial)

Upon the judge's order, sign the promise to appear to come back to a second pre-trial conference 'Under Duress' and do '**NOT**' initial the form or any other forms. This means you are not granting jurisdiction and your only promising to return under coercion, which is the threatened use of force.

Step 6: (Second Pre-Trial Conference)

Review the rules of the jury in your States rules of criminal procedure. Most States commit acts of treason against the Citizens by ordering jury's to obey instructions on law given by the judge. File an affidavit of jury rights with the prosecutor's office and court clerk.

TRIAL

Step 1:

Opening arguments; usually the prosecutor will open first, and then the defendant will open second.

Step 2:

Cross-examination; usually the prosecutor will question the police officer on the stand first, and then the defendant will question second.

Step 3:

You will be asked if you would like to take the stand; your testimony will only be used against you. If ordered to take the stand 'Plea the Fifth' whenever questioned.

Step 4:

Closing arguments; usually the prosecutor will open first, and then the defendant will open second.

Step 5:

If found 'guilty' file a 'motion to appeal' to the district court, also file a 'motion to stay appeal' meaning you do not fulfill your sentence until the appeal process is completed to determine whether or not the decision has been overturned. The prosecutor can object the 'motion to stay appeal' and if so there will be another court date to argue before the judge on the matter of 'motion to stay appeal'.

JURY RIGHTS

The term “jury nullification” means, a jury's knowing and deliberate rejection of the evidence or refusal to apply the law either because the jury wants to send a message about some social issue that is larger than the case itself or because the result dictated by law is contrary to the jury's sense of justice, morality, or fairness.

The February term of 1794, the Supreme Court conducted a jury trial in the case of the State of Georgia vs. Brailsford. In regard to the Jury, the Supreme Court decided,

“You have the right to take upon yourselves to judge of both, and to determine the law as well as the fact in controversy.”

State of Georgia vs. Brailsford, et al, 3 Dall. 1

U.S. Court Decisions

“The jury has an unreviewable right and irreversible power...to acquit in disregard of the instructions on the law given by trial judge...”

U.S. vs. Dougherty, 473 F 2nd 1113, 1139, (1972)

“The pages of history shine on instances of the jury’s exercise of its prerogative to disregard instructions of the judge...”

U.S. vs. Dougherty, 473 F 2nd 1113, 1139, (1972)

“The jury gets its understanding as to the arrangements in the legal system from more than one voice. There is the formal communication from the ‘judge.’ There is the formal communication from the total culture – literature; current comment, conversation; and, of course, history and tradition.”

Cited from Daugherty, 1972

**Chief Justices
of the
Supreme Court**

**“The jury has a right to judge both the law
as well as the fact in controversy.”**

John Jay, 1st Chief Justice

U.S. supreme Court, 1789

**“The jury has the right to determine both
the law as well as the facts”**

Samuel Chase, U.S. supreme Court Justice,

1796, Signer of The unanimous Declaration

**“The jury has the power to bring a verdict
in the teeth of both law and fact.”**

Oliver Wendell Holmes,

U.S. supreme Court Justice, 1902

“The law itself is on trial quite as much as the cause which it is to be decided.”

Harlan F. Stone, 12th Chief Justice

U.S. supreme Court, 1941.

CROSS-EXAMINATION

Question 1

Officer, when you detained me, was there evidence of an injured party?

Question 2

Officer, are you accusing me of committing damage to another party?

Question 3

Officer, what evidence do you rely on that I caused injury or damage to another party which is required for there to be standing?

Question 4

Officer, is it your arbitrary opinion I committed a crime or is your testimony based on facts currently within your knowledge?

Question 5

Officer, I must be proven guilty of every element of the crime, you are the witness, are you accusing me of committing every element of the crime?

Question 6

Officer, what are all the elements of the crime you accuse me of committing?

Question 7

Officer, you swore an oath to uphold and defend the Constitution of the United States correct?

Question 8

Officer, is the citation you issued me consistent with the State Constitution or United States Constitution?

Question 9

Officer, do you rely on evidence that the licensing laws of this State apply to me, or do you merely assume they apply to everyone?

Question 10

Officer, are you aware of the differences between the legal definitions of 'automobile' and 'motor vehicle' or 'driver' and 'traveler' or do you merely assume that they mean the same thing?

The cross-examination in this section of the manual is merely a guide. It is advised you do research and form your own questions for the officer based off these questions.

DISCLAIMER

This 'Right to Travel' manual is an overview of the right to travel; it should not be used as the only basis. It is strongly encouraged that you do additional research. This is not legal advice, if you want legal advice you should seek an attorney. The information displayed herein is provided in good faith; however, we make no guarantees about the completeness, the accuracy, the availability, the merchantability, or the fitness for any particular purpose of any of the information. We accept no responsibility for how you or anyone else may use this Manual. We accept no responsibility for any injury, loss, claim, or damage arising out of or in any way connected with the information displayed here, including inability to access and comprehend. By accessing this manual you agree with these conditions and agree to hold harmless the operators and maintainers of this Manual and their agents and partners.