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MOTOR VEHICLES:
Whether an Interstate Carrier
Must Carry a Copy of its
Interstate Registration

Mr. Nicholas Ciaccio
Executive Director
Motor Vehicle Laws Commission
222 South College
Springfield, Illinois 62706

Dear Mr. Ciaccio:

This is in response to the request from the Motor Vehicle Laws Commission for an opinion as to whether an interstate carrier must carry a certified copy of its currently effective interstate registration in the cab of a vehicle being operated in Illinois. Section 18-702 of The Illinois Vehicle Code (Ill. Rev. Stat. 1975, ch. 95 1/2, par. 18-702) imposes such a requirement on interstate carriers. That section reads in pertinent part as follows:

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"On and after the effective date of this Chapter, subject to the provisions of Section 18-305 of this Chapter, it shall be unlawful for any person to operate or furnish service as a motor carrier of property on any public highways of this State, until he shall have filed an application for such authority and received from the Commission a certificate, permit or registration authorizing such operation and shall cause to be carried in the power unit of each motor vehicle while being so operated and shall produce on request, a certified copy of the currently effective certificate, permit or registration. Copies may be photographed, photocopied, or reproduced or printed by any other legible and durable process. Any person guilty of not causing to be displayed a copy of his certificate, permit or registration may in any hearing concerning such violation, be excused from the payment of the penalty hereinafter provided upon a showing that such certificate, permit or registration was issued by the commission, but was subsequently lost or destroyed.

* * *

(emphasis added.)

Although the Commerce Clause (U.S. Const., art. I, sec. 8) confers on Congress the power to regulate interstate commerce, states may enact legislation on matters affecting interstate commerce when Congress has not exercised its power to regulate these matters (Parker v. Brown, 317 U.S. 341). However, once Congress has exercised its

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power, the inconsistent state legislation is pre-empted and is unenforceable since it is deemed to be an undue burden on interstate commerce. (First Iowa Hydro-Electric Cooperative v. Federal Power Comm'n., 328 U.S. 152.) It is my opinion that Congress has pre-empted the requirement in section 19-702 that an interstate carrier must carry a certified copy of its interstate registration.

Federal regulation of a field of commerce may be presumed to be pre-emptive of state regulatory power where the nature of the regulated subject matter permits no other conclusion or where Congress has unmistakably so ordained. (Florida Lime and Avocado Growers, Inc. v. Paul, 373 U.S. 132.) Congress has clearly expressed its intent to pre-empt certain state requirements concerning the registration of interstate carriers. Section 202(b)(2) of the Interstate Commerce Act (49 U.S.C. 302(b)(2)) provides that a state may require an interstate carrier to register its Interstate Commerce Commission operating authority. However, the registration must be accomplished according to the federal regulations promulgated pursuant to section 202(b)(2). Any

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state requirement in excess of the federal regulations is deemed to be an undue burden on interstate commerce. Section 202(b) (2) reads in pertinent part as follows:

"(2) The requirement by a State that any motor carrier operating in interstate or foreign commerce within the borders of that State register its certificate of public convenience and necessity or permit issued by the Commission shall not constitute an undue burden on interstate commerce provided that such registration is accomplished in accordance with standards, or amendments thereto, determined and officially certified to the Commission by the national organization of the State commissions, as referred to in section 305(f) of this title, and promulgated by the Commission. * * * To the extent that any State requirements for registration of motor carrier certificates or permits issued by the Commission impose obligations which are in excess of the standards or amendments thereto promulgated under this paragraph, such excessive requirements shall, on the effective date of such standards, constitute an undue burden on interstate commerce. * * * * (emphasis added.)

The regulations promulgated pursuant to section 202(b) (2) provide that when a state requires a motor carrier to register its interstate operating authority, the state can also require the carrier to display proof of its state registration on cab cards which conform to the specifications set out in the regulations. (49 C.F.R. §1023.31 to 1023.42.)

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The regulations do not authorize a state to require a carrier to carry a certified copy of its state registration. Such a requirement is in excess of the regulations promulgated pursuant to section 202(b) (2) and is, according to section 202(b) (2), an undue burden on interstate commerce.

Therefore, the requirement in section 18-702 of The Illinois Vehicle Code that an interstate carrier carry a certified copy of its interstate registration is an undue burden on interstate commerce. The requirement is thus void and unenforceable.

Very truly yours,

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