



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

December 9, 1952

Hon. Homer Garrison, Jr., Director
Texas Department of Public Safety
Camp Mabry
Austin, Texas

Opinion No. V-1545

Re: Termination of World War II
for the purposes of S.B.
119, Acts 48th Leg., 1943,
Ch. 38, respecting minimum
age of school bus drivers.

Dear Col. Garrison:

Your request for our opinion reads in part as follows:

"This Department would appreciate an opinion from your office as to whether or not the present war has so concluded as to terminate the provisions of Senate Bill 119, 48th Legislature, 1943.

"Senate Bill 119, 48th Legislature, 1943, was an amendment to Section 5, of Article 6687b, V.C.S., which latter Article reads as follows:

'Special restrictions on drivers of school buses and public or common carrier motor vehicles. No person who is under the age of twenty-one (21) years shall drive any motor vehicle while in use as a school bus for the transportation of pupils to or from school, nor any motor vehicle while in use as a public or common carrier of persons nor in either event until he has been licensed as a chauffeur.'

lows: "Emergency Senate Bill No. 119 reads as fol--

'Until the conclusion of the present war with Germany, Italy and Japan, persons seventeen (17) years of age and over who have been licensed as

chauffeurs by the Department of Public Safety shall be authorized to drive any motor vehicle while in use as a school bus for the transportation of pupils to and from school, or any motor vehicle in use as a public or common carrier of persons; providing that any person under twenty-one (21) years of age who drives said school buses must be recommended by the County Superintendent and local school principal, and all statutes now prohibiting the operation of such motor vehicles by persons under the age of twenty-one (21) years are suspended until the conclusion of hostilities. Provided, however, that this Act will not apply to drivers of vehicles operated under permit or certificate issued by the Railroad Commission of Texas.'

"The question here presented was submitted to the Attorney General's Department on September 4, 1945, and resulted in Opinion No. 0-6747, approved October 26, 1945, in which the opinion was expressed that the present war has not yet legally concluded and cannot be considered as concluded in the legal sense even though actual hostilities are at an end. The Opinion went on to say:

'Senate Bill 119 will not expire until the Congress of the United States, or the President by authority of Congress, formally proclaims the termination or conclusion of the present war.'

"Pursuant to the above Opinion No. 0-6747, the Driver's License Division of this Department has continued to accept the fact that the provisions of Senate Bill No. 119 are still in effect.

"The above quoted Opinion was issued prior to the decisions in the cases of *Lincoln vs. Harvey*, Tex. Civ. App., 191 S.W.2d 764, 765, and *Victory Truck Line vs. Railroad Commission*, Tex. Civ. App., 207 S.W.2d 210, 216. The Opinions in those two cases suggest that it

Hon. Homer Garrison, Jr., page 3 (V-1545).

may have been the intent of the Legislature that the war shall have ended for the purposes of the Act when the conditions have ended which created the necessity for the passage of the Act.

"In view of the above and in view of the passage of time and the termination of the conditions which created the necessity for the relaxation of the provisions of Section 5, of Article 6687b, we will appreciate your reconsideration of the question which we here re-state as follows:

'Has World War II so concluded as to terminate the provisions of Senate Bill 119, 48th Legislature, 1943?'

We are of the opinion that your question should be answered in the affirmative.

By telegram dated September 4, 1952, this office inquired of the Secretary of State, Washington, D.C., regarding the termination of a state of war with Germany, Italy, Japan, and other Powers against which war had been declared by the United States. We quote from the letter dated September 11, 1952, in answer thereto, as follows:

"Reference is made to your telegram of September 4, 1952, in which you make certain inquiries regarding the entry into force of the peace treaties and the termination of World War II.

"The Treaty of Peace with Japan, signed at San Francisco on September 8, 1951, was approved by the Senate on March 20, 1952, and ratified by the President on April 15, 1952. The Treaty came into force on April 28, 1952, the date on which a majority of the States, including the United States, deposited instruments of ratification as provided in Article 23 of the Treaty. The President on that same day, April 28, 1952, proclaimed the Treaty and the termination of the state of war with Japan. . . .

"The treaties of peace with Italy, Bulgaria, Hungary, and Rumania, signed at Paris on February 10, 1947, were approved by the Senate on June 5, 1947, and ratified by the President on June 14, 1947. The treaties came into force on September 15, 1947, the date on which, with respect to the Italian treaty, instruments of ratification were deposited by the United States, the United Kingdom, France, and the Soviet Union, and, with respect to the Bulgarian, Hungarian, and Rumanian treaties, instruments of ratification were deposited by the United States, the United Kingdom, and the Soviet Union. On September 15, 1947, the President proclaimed each of the aforementioned peace treaties and the termination of the states of war with Italy, Bulgaria, Hungary, and Rumania. The text of each of those proclamations may be found in 61 Stat. 1246-1754, 1758-1912, 1916-2062, and 2066-2227.

"The state of war between the United States and Germany was terminated on October 19, 1951, pursuant to House Joint Resolution No. 289, approved October 19, 1951, entitled 'Joint Resolution to Terminate the State of War Between the United States and the Government of Germany' (Public Law 181, 82d Congress). This termination was proclaimed by the President in his proclamation No. 2950 of October 24, 1951, which may be found on page 51 of Volume 3, 1951, Supplement, of the Code of Federal Regulations."

The "present war" (World War II) which created the necessity for the suspension of the provisions of Section 5 of Article 6687b having been officially ended, the provisions of Senate Bill 119, Acts 48th Leg., 1943, Ch. 38, p. 41, have now expired.

SUMMARY

World War II was officially terminated on April 28, 1952, the date on which the Treaty of Peace with Japan came into force, and the act authorizing persons under 21 and over 17 years of age licensed as chauffeurs to operate

Hon. Homer Garrison, Jr., page 5 (V-1545).

school buses or public or common carriers until the conclusion of that war has now expired (S.B. 119, Acts 48th Leg., 1943, Ch. 38, p. 41).

Yours very truly,

APPROVED:

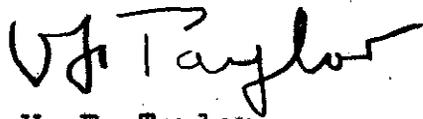
William S. Lott
State Affairs Division

Mary K. Wall
Reviewing Assistant

Charles D. Mathews
First Assistant

PRICE DANIEL
Attorney General

By



V. F. Taylor
Assistant

vft/mlh