

Opinion No. 49-5261

December 5, 1949

BY: JOE L. MARTINEZ, Attorney General

TO: Tom C. Cox Chief Clerk Motor Transportation Department State Corporation
Commission Santa Fe, New Mexico

{*107} I have your letter of December 1, 1949, in which you request the opinion of this office as to the manner in which insurance companies may cancel policies which have been filed with the State Corporation Commission pursuant to the provisions of the "Share-the-Ride Law."

As I understand the situation, the original policies provided for cancellation by the insurance company after five-day notice to the insured. Under the provisions of the Share-the-Ride Law, the Corporation Commission attached an endorsement to the policy requiring 30-days notice to the insured by the insurer before said policy could be cancelled. On November 14, 1949, a judgment was entered in the case of Watkins v. State Corporation Commission et al, No. 23255, the docket of the District Court for the County of Santa Fe. This judgment, in part, provided as follows:

"IT IS FURTHER ADJUDGED AND DECREED that defendants and each of them be and they are hereby restrained and enjoined from entering and rendering any order or determination and otherwise attempting to enforce or effectuate any matter purporting to arise under the unconstitutional act aforesaid. Entered November 14, 1949."

It has been jointly agreed between the State Corporation Commission and this office that no appeal shall be taken from the Order heretofore quoted. In simple language, this order and judgment restrains the Corporation Commission from, in any manner, attempting to enforce the "Share-the-Ride Law."

The endorsement requiring 30-days' notice of cancellation was placed on the policy by virtue of the "Share-the-Ride Law." Since this law has been declared unconstitutional, and since the Corporation Commission can no longer attempt to enforce it, the endorsement placed on that policy by the Corporation Commission is no longer in effect. Any attempt by the Corporation Commission to enforce this endorsement would be an attempt on the part of said Commission to enforce the "Share-the-Ride Law" and would be in conflict with the judgment of the court above quoted. As the endorsement can no longer be enforced, the original provisions of the policy would prevail and the policy could be cancelled upon the giving of five days' notice by the insurer. This matter has been discussed with Mr. R. F. Apodaca, Superintendent of Insurance, and he concurs with the views expressed herein.