

**Opinion No. 52-5570**

July 28, 1952

**BY:** JOE L. MARTINEZ, Attorney General

**TO:** C. O. Erwin Chief Highway Engineer State Highway Commission Santa Fe, New Mexico

{\*279} In answer to your recent request for an opinion whether a trailer with width of 11 1/2 feet used by an irrigation district for transporting maintenance equipment could be classified as an instrument of husbandry and thus exempted from the maximum width provisions imposed by § 68-602 NMSA, may I state:

It is the opinion of this office that the exemption given in this statute for instruments of husbandry applies only to such instruments themselves, which will be propelled or moved upon the highways, and not to the instrumentalities or vehicles which may be carrying such instruments of husbandry. It is quite evident that the exemption is not intended to apply to a trailer which may be transporting instruments of husbandry since the vehicle in question is a trailer and a trailer cannot be classified as such instrument.

It is the further opinion of this office that the only authority for the use of such vehicle upon such highways is through the issuance of a special permit authorized under § 68-605 NMSA. It is apparent from this section of the statute that blanket authority may be given under the emergency clause for a period up to a year. It is suggested that if the trailer will be used for more than a year the matter of securing a temporary permit after the expiration of the year be taken up at that time, and it would be the further opinion of this office that since the trailer will in all probability be on the highways only at infrequent instances, the use of the trailer by a public authority in this fashion is authorized by the Legislature as indicated in the fashion herein.

I trust that this fully answers your inquiry.