

## Opinion No. 53-5787

July 24, 1953

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Honorable Donald T. Law Member House of Representatives State of New Mexico  
Las Cruces, New Mexico

{\*190} You addressed an inquiry to this office on July 15, 1953, concerning certain phases of Senate Bill No. 212, which is Chapter 139 of the 1953 New Mexico Session Laws. Your inquiry is specifically directed to the question of whether or not the Commissioner of Motor Vehicles has the power under the act to declare so-called "semaphore signals" illegal. Section 147 of said chapter reads as follows:

"SELLING OR USING LAMPS OR EQUIPMENT. -- (a) On and after January 1, 1954, no person shall have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer or semitrailer, or fog lamp, rear lamp, signal lamp, or reflector which reflector is required hereunder, or parts of any of the foregoing which tend to change the original design or performance, unless of a type which has been submitted to the Commissioner and approved by him. The foregoing provisions of the section shall not apply to equipment in actual use when this section is adopted or replacement parts therefor."

Section 80 of the same chapter of the law reads as follows:

"SIGNALS BY HAND AND ARM OR SIGNAL DEVICE. -- (a) Any stop or turn signal when required herein shall be give neither by means of the hand and arm or by a signal lamp or lamps or mechanical signal device except as otherwise provided in paragraph (b).

"(b) Any motor vehicle in use on a highway shall be equipped with, and required signal shall be given by, a signal lamp or lamps or mechanical signal device when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds 24 inches, or when the distance from the center of the top of the steering post to the rear limit of the body of load thereof exceeds 14 feet. The latter measurement shall apply to any single vehicle, also to any combination of vehicles."

Section 80, cited above, became effective on the 1st day of July, 1953, but the language of the statute in Section 147, by which the commissioner is empowered to pass his approval upon the mechanical signaling devices, does not become effective until January 1, 1954. Section 139 of the same chapter requires that the signal lamp or signal device be "capable of clearly indicating any intention to turn either to the right or to the left and which shall be visible from the front and from the rear."

Assuming the semaphore signals {\*191} referred to in your letter met the distance illumination requirements under the act they would be perfectly permissible under the law on any vehicle to and including those prior to the date of January 1, 1954. The Commissioner of Motor Vehicles has no power prior to this date to approve or disapprove any signaling devices which become part of the equipment of any motor vehicle in this state. After January 1, 1954, all **new** vehicles sold must be equipped with lamps or mechanical signaling devices which meet the requirements of Section 139 of said act, and also after January 1, 1954, no person may sell a new vehicle that does not have a lamp or signaling device approved by the commissioner. This does not mean that a person in interstate commerce shall be bound by the act, in conformity with a letter from this office addressed to Mr. Tony Mignardot, Assistant Commissioner of Motor Vehicles, dated July 16, in which we directed as follows:

"In the event the vehicles are operating intrastate and under the authority vested in and granted by the State Corporation Commission the laws of the State of New Mexico concerning equipment required to be on those vehicles would be enforceable and such equipment would be necessary.

"However, on vehicles operating interstate and under authority granted by the Interstate Commerce Commission this state has no authority to require anything in addition to that equipment required by the Interstate Commerce Commission. Any requirement and attempted enforcement of such requirement would be in violation of and would constitute a burden upon interstate commerce, thus unconstitutional under the Laws of the United States."

You will note that Section 147 exempts equipment which is in actual use at the time of the adoption of this Act. This exempts equipment which was in use on the first day of July, 1953, and the replacement parts therefor, so long as the illumination distance requirements are met. Thus if the semaphore signal meet the illumination distance requirements the Commissioner of Motor Vehicles does not have the authority to approve or disapprove of them on vehicles presently in use. Any vehicle which does not have turn signal equipment on the effective date of this Act, must be equipped with such turn signal equipment as is approved by the Commissioner of Motor Vehicles after January 1, 1954.

We sincerely hope that this answers your inquiry.

By: Fred M. Standley

Assist. Attorney General Chief, Division I