

Opinion No. 55-6230

July 22, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: State Corporation Commission, Motor Transportation Department, Santa Fe, New Mexico. Attention: Mr. W. K. Waite, Chief Clerk

Your request for the opinion of this office concerning whether or not the operation of "U-Drive-It" cars, trucks and "U-Haul-It" trailers is subject to regulation by the Corporation Commission has been received.

The jurisdiction of the Corporation Commission in the administration of the Motor Carrier Act is restricted to common and contract carriers. Therefore, it is necessary to determine if the above classed operations fall within the definition of contract or common carriers.

The Supreme Court of this State had this identical problem before it in the case of *Roeske v. Lamb*, 39 N.M. 111, and therein held in a problem dealing with "U-Drive-It" cars that the Motor Carrier Act regulates carriers and carriers only and did not apply to the very type operation about which you inquire. The Court therein defined "carrier" as follows:

"A 'carrier' has been defined as one that undertakes the transportation of persons or movable property, or one employed in or engaged in the business of carrying goods for others for hire. 'Private carrier' is one who, without being engaged in such business, undertakes to deliver goods in a particular case for hire or reward."

Since the Supreme Court has so construed the Motor Carrier Act in an analogous situation, it follows that the activity about which you inquire is not subject to regulation by the State Corporation Commission under the Motor Carrier Act since said activity does not fall within the quoted definition.

By J. A. Smith

Assistant Attorney General