

Opinion No. 60-178

September 29, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Mr. Benny E. Sanchez Commissioner Department of Motor Vehicle Santa Fe, New Mexico

QUESTION

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Is a truck used for logging purposes only subject to the registration and certificate of title provisions of the Motor Vehicle Act?

CONCLUSION

See analysis.

OPINION

{*572} **ANALYSIS**

The question we have for consideration requires certain factual determinations that cannot be made either generally, or specifically, on the basis of the information available. Therefore, we can only provide you with our analysis of the law and permit you to fit the facts of each case within this analysis to determine whether registration and the procurement of a certificate of title are necessary.

Sec. 64-3-2, N.M.S.A., 1953 Comp., states that every motor vehicle, trailer, semitrailer and pole trailer when driven or moved upon a highway shall be subject to the registration and certificate of title provisions of the Motor Vehicle Act except

"* * *

(b) Any such vehicle which is driven or moved upon a highway only for the purpose of crossing such highway from one (1) property to another; * * *

(d) Any special mobile equipment as herein defined; * * *"

The above two subsections appear to be the only exceptions possibly applicable to the question at hand.

Subsection (b) above excludes any vehicle that is driven or moved upon a highway only for the purpose of crossing such highway. This requires a factual determination in

ascertaining whether the vehicles in question only cross the {*573} highway. If so, and such is only for the purpose of moving from one property to another, then registration and procurement of a certificate of title would be unnecessary. I leave it for your determination as to whether this is the only movement by the logging trucks upon the highways in this State.

The second above section excludes special mobile equipment. Special mobile equipment is defined in Sec. 64-1-12, N.M.S.A., 1953 Comp., as being

"Every vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, * * *"

It will be noted that this exception excludes only those vehicles not designed or used primarily for the transportation of persons or property. See A.G. Opn. 58-115, dated June 3, 1958. It seems unlikely that logging trucks would fall within that definition since they are most certainly designed, as well as used, primarily for the transportation of property. It is our conclusion that such trucks would not qualify under the second above exception.

Therefore, in summary, we conclude that unless it is found that the logging trucks in question are not driven or moved upon a highway, except for the purpose of crossing such highway only, that they are subject to the registration and certificate of title provisions of the Motor Vehicle Act.

By: Thomas O. Olson

First Assistant Attorney General