

## Opinion No. 61-40

May 17, 1961

**BY:** OPINION OF EARL E. HARTLEY, Attorney General Oliver E Payne, Assistant Attorney General

**TO:** Mr. William Cowles, Chairman, New Mexico State Police Board, Santa Fe, New Mexico

### QUESTION

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1. Are inspectors for the Corporation Commission authorized to exercise the lawful powers of peace officers?
2. May the automobiles used by such inspectors be equipped with sirens and flashing lights?

#### CONCLUSION

1. See Analysis.
2. See Analysis.

### OPINION

#### ANALYSIS

In answer to the question of whether or not inspectors designated by the State Corporation Commission may exercise the powers given by law to peace officers, our conclusion is that they may exercise such powers only when enforcing or attempting to enforce the constitutional and statutory provisions relative to the supervision and regulation of the business of transporting persons or property for hire by motor vehicles.

Our conclusion is grounded on the following provision contained both in Section 64-27-62 and Section 64-27-80, N.M.S.A., 1953 Compilation:

"The inspectors designated by the commission shall have all the lawful powers of peace officers **to enforce this act** in any county or city of this state." (Emphasis supplied)

The act referred to in the above-quoted provision is contained in Sections 64-27-1 through 64-27-81, N.M.S.A., 1953 Compilation, and relates to the regulation and supervision of the business of transportation by motor vehicles **for hire** over the public highways of this State.

Thus, the conclusion is inescapable that Corporation Commission inspectors have the status of peace officers only when they are in the process of enforcing the regulations over which the Corporation Commission has jurisdiction.

The second question posed is whether the automobiles used by Corporation Commission inspectors may be equipped with sirens and flashing lights (other than turn signal lights).

Section 64-20-43, N.M.S.A., 1953 Compilation, dealing with motor vehicle horns and warning devices, provides as follows in paragraph (b):

"No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle, or bell except as otherwise permitted in this section."

Paragraph (d) of this Section is as follows:

**"Any authorized emergency vehicle** may be equipped with a siren, whistle, or bell, capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the division, but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which said latter events the driver of such vehicle shall sound said siren when reasonably necessary to warn pedestrians and other drivers of the approach thereof." (Emphasis supplied)

Section 64-20-36, N.M.S.A., 1953 Compilation, dealing with special restrictions on vehicle lamps, provides, in pertinent part, as follows in paragraph (c):

"Flashing lights are prohibited except . . . **on authorized emergency vehicles.** . . . and on any vehicle as a means of indicating a right or left turn." (Emphasis supplied)

We see then that the answer to the question of whether or not an automobile used by a Corporation Commission inspector may be equipped with sirens and flashing lights depends upon whether the vehicle has been designated as an authorized emergency vehicle pursuant to Section 64-15-5, N.M.S.A., 1953 Compilation. This Section provides that:

"The commissioner of the motor vehicle division and the chief of the state police are hereby authorized to designate emergency vehicles and revoke such designation."

In the absence of a designation of the vehicle as an authorized emergency vehicle in compliance with Section 64-15-5, supra, the automobile utilized by any Corporation Commission Inspector may not have sirens and flashing lights installed thereon.