

Opinion No. 61-47

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BY: OPINION OF EARL E. HARTLEY, Attorney General Boston E. Witt, Assistant Attorney General

TO: Mr. Maurice Matthews, Acting State Bank Examiner, 341 Don Gaspar, Santa Fe, New Mexico

QUESTION

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Is a motor boat a motor vehicle within the meaning of the Motor Vehicle Sales Finance Act?

CONCLUSION

No.

OPINION

ANALYSIS

Section 50-15-2, N.M.S.A., 1953 Compilation (P.S.) defines the words "motor vehicle" for the purposes of the Motor Vehicle Sales Finance Act as follows:

"A. 'Motor vehicle' means automobiles, mobile homes, motorcycles, trucks, semitrailers, truck tractors, and all vehicles, new or used, with any power other than muscular power except farm machinery, aircraft or any vehicle which runs only on rails or tracks; . . ."

It is obvious that a motor boat does not come within the meaning of "automobile, mobile homes, motorcycles, trucks, semitrailers" or "truck tractors." If a motor boat comes within the meaning of the above definition, it must be as "all vehicles, new or used with any power other than muscular power." The word "vehicle" has been frequently defined by the courts; however, there is little uniformity in result.

The Supreme Court of Illinois has defined the word as it applies to an accident insurance policy as any means of conveyance whether on land, sea or in the air. **McKnight v. Federal Life Insurance Company**, 278 Ill. App. 241. The Supreme Court of the United States in a moment of levity defined "vehicle" as a wheelbarrow, a covered wagon, a Rolls Royce, a patient mule, a man of war, and possibly a pullman car or ocean liner. **U.S. v. One 1936 Model Ford V-8 Deluxe Coach Model No. 18-3306511, Ga. & S.C.**, 307 U.S. 219.

Other courts have taken the position that a vehicle is something that travels primarily on land. **Duckwall v. City of New Albany**, 55 Ind. 283. The only conclusion one can reach on the basis of the reported cases defining the word is that the definition depends upon statute and context in which it is used.

This is the approach we choose to take in solving the problem since, after all, our primary goal is to attempt to determine the intention of the Legislature in using the word in the manner in which it did.

A perusal of the entire Motor Vehicle Sales Finance Act appears, at least to us, to be intended to apply only to automobiles and such, at the very least, vehicles that are designed to move over land, rather than water. This is in keeping with the general rule of statutory construction known as "the last antecedent doctrine" adopted by our Supreme Court. **U.S. v. Santistevan**, 1 N.M. 583; **In Re Goldworthy's Estate**, 45 N.M. 406, 116 P. 2d 627. Under this doctrine, relative and qualifying words, phrases and clauses in a statute should be applied to the words or phrase immediately preceding and should not be construed as extending to or including words more removed.

Applying this rule to the statute under consideration, we see that the phrase "all vehicles new or used with any power other than muscular" must be read in relation to the words going before, i.e., automobiles, mobile homes, motorcycles, trucks, semitrailers and truck tractors.

Our conclusion is that the Legislature intended the statute to apply only to "motor vehicles" designed to move over land rather than water.