

Opinion No. 67-22

February 9, 1967

BY: OPINION OF BOSTON E. WITT, Attorney General

TO: Mr. Clay Buchanan, Director New Mexico Legislative Council State Capitol Santa Fe, New Mexico

QUESTION

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Do persons operating wreckers, towing vehicles or emergency vehicles have to comply with the requirement of keeping a driver's log pursuant to Section 2 of Rule 3 of the Rules and Regulations of the New Mexico State Corporation Commission?

CONCLUSION

Yes.

OPINION

{*28} ANALYSIS

Persons operating wreckers, towing vehicles or emergency vehicles are required to seek certification under the provisions of Section 64-27-8, N.M.S.A., 1953 Compilation. These carriers are subject to the continuing jurisdiction of the State Corporation Commission Pursuant to Section 64-27-6, N.M.S.A., 1953 Compilation the Corporation Commission is granted the authority to prescribe rules and regulations in conformity with this act applicable to any and all common motor carriers.

Under the power contained in Section 64-27-6, the New Mexico Corporation Commission promulgated its rules and regulations among which is Rule 3. Under Section 2 of Rule 3 there is a requirement that every driver shall have in his possession and available for inspection by officers of the Commission or the New Mexico State Police, a log showing the date, the time he entered into service, the time spent driving, his name, his employer's name, vehicle license number, unit number, origin, and the destination of the trip. This rule is applicable to all common carriers operating under certificates of public convenience and necessity issued by the State Corporation Commission and is consistent with the directive contained in Section 64-27-6, cited above.

It is our conclusion that the rule as promulgated by the Commission is consistent with statutory directives and that as there is no specific exception contained therein

applicable to wreckers, towing machines or emergency vehicles, it is incumbent upon persons operating such businesses to comply with the requirements set forth therein.

By: Miles E. Flint

Assistant Attorney General