

Opinion No. 67-73

June 2, 1967

BY: OPINION OF BOSTON E. WITT, Attorney General

TO: Johnny A. Taylor Director Motor Transportation Department State Capitol Building
Santa Fe, New Mexico

QUESTION

FACTS

Liquid fertilizer supply firms within the state transport and deliver their products within the state in four wheel tank trailers which are 6 or 7 feet long and have a capacity of 500 or 600 gallons. The trailers are loaded from large stationary tanks at the suppliers and then towed to points where commodity is to be used. The tank is left at the delivery point until the commodity has been used. Distances of hauls over the highways varies from just short distances to trips over 10 miles.

QUESTION

Are fertilizer tank trailers, such as described above, subject to motor vehicle licensing in New Mexico?

CONCLUSION

Yes.

OPINION

{*108} ANALYSIS

Section 64-3-2, N.M.S.A., 1953 Compilation provides in pertinent part:

"Vehicles subject to registration -- Exceptions. -- Every motor vehicle, trailer, semitrailer and pole trailer when driven or moved upon a highway shall be subject to the registration and certificate of {*109} title provisions of this act except:

(a) . . .

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

(c) Any implement of husbandry which is only incidentally operated or moved upon a highway."

In order for the involved trailers to be excepted from the requirements of the above registration and certificate of title requirements of the act, they would have to fall within one of the above exceptions.

In an earlier opinion, Opinion of the Attorney General 1955-56, No. 6429, it was held that in order for a vehicle to be exempt as an "implement of husbandry" it must be a vehicle which is an implement of husbandry per se. The Trailers involved here are used for transporting fertilizer in this instance but could, as we understand it, be used for other purposes as well. As such, it is our opinion, it would not fall within the exception contained in Section 64-3-2 (c), supra.

The only other possible exception which could be applicable to these vehicles is that contained in Section 64-3-2 (b), supra. That exception applies to vehicles which are driven on the highways only for the purpose of crossing such highway from one property to another. As can be seen from the facts set forth, the involved trailers are used for transporting fertilizer over the highways and not merely to cross highways. The exception, therefore, is not applicable.

It is our opinion that the trailers involved here are subject to registration and certificate of title requirements.

By: Myles E. Flint

Assistant Attorney General