

## Opinion No. 31-37

January 29, 1931

**BY:** E. K. Neumann, Attorney General

**TO:** Hon. Floyd W. Lee, New Mexico State Senator, Santa Fe, New Mexico.

{\*37} Your letter of January 28th, requesting an opinion as to whether or not Driverless Car Companies within the State of New Mexico should be required to comply with the conditions of the 1929 Motor Carrier Act, which is now cited as section 11-1001 to 11-1045 New Mexico Statutes, Annotated, 1929 Compilation, has been referred to me for attention.

It has always been the opinion of the writer that it was not the intention of the Legislature to require Taxi Cabs and Driverless Car Companies, which are operating within the corporate limits within the municipality, to bring such carriers within the provisions of the statutes. However, the act itself is probably so comprehensive that the State Corporation Commission is justified in construing it to mean that such Motor Carriers should come within the provisions.

We wish to direct your attention to para. D. section 11-1001, which defines the term "MOTOR CARRIER". Under this definition, this term means and includes every person that now and may hereafter own, lease, control or operate any motor vehicle upon any public highway of this state, as a common carrier for the transportation of passengers or property for hire by the fixed terms over a regular route even though there may be periodic or irregular departures from such termini or route.

The term, "FIXED TERMINI" or "REGULAR ROUTE", are defined to mean the termini between which or the route over which such motor carrier shall usually or ordinarily operate, though departures from such termini or route may be periodical or irregular.

It is at once apparent that, under this definition, the term Fixed Termini may as a matter of fact apply to either a regular route or an irregular route, and the operation of a motor carrier upon the public highways is to be regulated with this definition.

The term "Public Highway" means and includes every public state road, highway or thorough-fare of any kind in this state.

Due to the very comprehensive definition of the terms FIXED TERMINI and MOTOR CARRIER, we are ready to concede that the State Corporation Commission is justified in placing the construction it has upon this law.

Inasmuch as there seems to be a doubt in the minds of some as to whether this act applies to carriers, such as mentioned by you in your letters, we would suggest that those interested take the matter up with the Legislature.

In addition to the foregoing, we also desire to call your attention to the fact that under section 11-1042 certain exemptions have been set out and, from a strict reading of this section, we are unable to find that it can be construed to include driverless acrs. Due to the narrow limits upon each side of this question, we would not advise you to fail to comply with the demand of the State Corporation Commission unless it would be desired that a test case be made and the matter taken to the Supreme Court of this state.

By Frank H. Patton,

Asst. Att'y General