

Opinion No. 33-660

October 9, 1933

BY: E. K. NEUMANN, Attorney General

TO: Honorable A. W. Hockenull, Governor of New Mexico, Santa Fe, New Mexico.

{*81} Regarding the copies of the resolutions of the Deming Lions Club which you forwarded to this office, and which are herewith returned to you.

The first resolution protests a ruling charged to the Corporation Commission requiring current New Mexico license plates upon caravans of automobiles driven and towed through New Mexico from the place of manufacture to the Pacific Coast. This statement of fact is erroneous as the ruling was made by the Motor Vehicle Department of the State Comptroller's Office. In my opinion, {*82} there is no authority of law for the ruling made and such ruling should not be enforced.

As to the second resolution, which protests the action of the Corporation Commission in imposing a tax of 1/4 c per mile, in hauling gravel on state and federal highways, such needs detailed explanation.

The Legislature passed Chapter 154, Laws of 1933, relating to the regulation of motor carriers in this state. Two classes of carriers are therein dealt with, "common motor carriers of property" and "contract carriers of property," as well as common carriers of passengers and contract carriers of passengers. Trucks engaged in hauling gravel for contractors upon highways are, under the definitions of said act, contract carriers of property, unless such trucks are owned by the contractor and are subject to the provisions of said act. The Corporation Commission is imposing no tax, but is simply performing its duty in carrying out the provisions of law applicable in such cases.

The pertinent provisions of law are as follows:

"The term 'contract motor carriers of property,' when used in this act, shall mean any person engaged in the transportation by motor vehicle of property for hire, not included in the term 'common motor carrier of property' as hereinbefore defined."

"It shall be unlawful for any contract motor carrier to operate within this state without first having obtained from the Commission a permit."

Regarding fees: "For certificate of registration and for permit \$ 25.00."

Regarding taxes: "1/8 cent per mile -- up to 1 1/2-ton capacity. 1/4 cent per mile -- over 1 1/2-ton and not over 2 1/2 tons. 1/2 cent per mile -- over 2 1/2 tons and not over 4 tons capacity."

1 cent per mile -- over 4 tons and not over 5 tons capacity.

1 1/2 cents per mile -- over 5 tons capacity.

I think the Corporation Commission deserves no criticism for its application of said law in such cases.