

Opinion No. 38-2057

September 26, 1938

BY: FRANK H. PATTON, Attorney General

TO: State Corporation Commission Motor Transportation Department Santa Fe, New Mexico. Attention: Mr. Robert Valdez Chairman

{*281} Your letter of September 24th, together with copy of letter from Mr. Juan J. Griego of the Board of Education of La Joya, has been received.

The facts are set forth in Mr. Griego's letter and we assume for purposes of this letter that they are true and correct. One of these facts is to the effect that the private bus driver in question transports school children for a certain charge per {*282} pupil from the school to a point eight miles from La Joya to another bus line. I assume at this point that a transfer is made and I imagine the same procedure is followed on the return trip. Paragraph (a), Section 6, Chapter 224, Laws of 1937, provides as follows:

"EXEMPTIONS. Neither this act nor any provisions hereof shall apply or be construed to apply to any of the following: (a) Motor vehicles used exclusively to convey children to and from schools, provided that such vehicles shall, notwithstanding the provisions of this section, be subject to all of the safety provisions of this Act or that may be prescribed by the Commissioner under the terms of this Act."

This provision, in my opinion, contemplates a bus driver under contract with the school board for the transportation of pupils to and from the schools. It has no application to a carrier operating as herein outlined and such operation, in my belief, is an evasion of the law.