

Opinion No. 43-4321

June 23, 1943

BY: EDWARD P. CHASE, Attorney General

TO: Mr. Earl Stull, Director, Department of Courtesy and Information, Box 1666, Santa Fe, New Mexico

We have your letter of June 22, 1943, requesting an official opinion concerning the collection of mileage tax under Sections 10 and 12, Chapter 125 of the 1943 Session Laws.

Section 12, Chapter 125 of the Laws of 1943 provides:

"There is hereby levied and assessed against commercial motor vehicles in sub-sections (c) and (d) of Section 10, for the administration of this act, and for the maintenance, repair and reconstruction of the public highways, a mileage tax which shall be computed as follows: * * *"

Sub-section (c) of Section 10 pertains to

"Commercial motor vehicles not registered or licensed in this state which are transporting passengers for hire or property for hire or resale when * * *"

Sub-section (d) of such section provides:

"Commercial motor vehicles not registered or licensed in this state which are transporting property not for hire or resale when * * *"

The phrase "registered or licensed in this state" can pertain only to the registration and licensing provided for in our statutes in Sections 68-201 to 68-248 inclusive, and the word "registration" refers to registering with the Motor Vehicle Department under the above mentioned sections. The word "licensing" plainly refers to properly obtaining a New Mexico license plate from the Motor Vehicle Department of this state.

In view of the foregoing it is my opinion that no mileage tax may be legally collected on a commercial motor vehicle which is registered and licensed in New Mexico by any state agency, under Section 12 of Chapter 125 of the Laws of 1943.

It is further my opinion that if a commercial motor vehicle is not registered or licensed in New Mexico, that the mileage tax provided for in Section 12 may be assessed against such motor vehicle, and collected by the Ports of Entry. The sole test is, under both sub-sections (c) and (d), whether or not the motor vehicle is registered and licensed in the State of New Mexico.

Hoping that the foregoing sufficiently answers your inquiry, I remain

By HARRY L. BIGBEE

Asst. Atty. General