

**Opinion No. 44-4480**

March 14, 1944

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. E. R. Cooper, Assistant District Attorney, Las Vegas, New Mexico

In your letter dated March 12, 1944, you state that a bus line transports passengers within the City of Las Vegas, Town of Las Vegas, and outside the municipal boundaries as far as Camp Luna. The portion outside either municipality is over county roads, and you are wondering whether the county can collect a franchise tax for the operation of the bus over the county roads.

Counties cannot collect any tax except as may be authorized by the Legislature.

Section 68-232 of the 1941 Compilation, pertaining to registration of motor vehicles, provides that the fee shall be in lieu of similar registration required by any county or municipality, but authorizes the municipalities to license operators and regulate the use of such vehicles within their corporate limits.

Section 68-1368, under the motor carriers act, also authorizes municipalities to regulate the use of the streets and highways by motor carriers. I do not find any law authorizing counties to charge fees under their police powers by way of regulation.

You state that the distance outside the municipal boundary is small enough to bring the bus line within the exemption of Section 68-1325. I presume that you refer to subsection (d) thereof, which allows hotel busses and taxicabs to operate within a radius of five miles from the center of a municipality. However, if this bus line is not a hotel bus, it would fall under subsection (f), which applies only to busses traveling a fixed route, the greater portion of which lies within the boundaries of any one city.

Since an exemption should be strictly construed, and since two municipalities and a portion of a county road are involved, it may be that the greater portion of the bus route lies outside the boundaries of any one municipality. If so, the motor carrier would not be exempt from the act, and should file its application with the State Corporation Commission.

By C. C. McCULLOH,

First Asst. Atty. General