

Opinion No. 44-4608

October 31, 1944

BY: C. C. McCULLOH, Attorney General

TO: Mr. Diego R. Gonzalez, Chief Clerk, State Corporation Commission, Motor Transportation Dep't, Santa Fe, New Mexico

I have your letter of October 30, 1944, wherein you state that under Section 68-1320 of the N.M. 1941 Compilation, Contract Motor Carrier Permits issued by your commission are not subject to assignment or transfer. In view of this situation, you request an opinion as to whether such permits are subject to lease.

A lease, under the circumstances, would amount to a transfer of the rights given by the permit for a certain length of time and would, therefore, come within the prohibition of the statute. To allow transfer of rights given pursuant to a permit by way of lease would defeat the purpose of the statute, and would come within the specific prohibition of the section referred to in your letter.

See *Halstead v. Globe Indemnity Company*, 258 N. Y. 176, 179 N. E. 376, and also cases referred to in *24 Words and Phrases*, pages 463 to 488, concerning the general nature of various types of leases.

Trusting that the foregoing sufficiently answers your inquiry, I am

By HARRY L. BIGBEE,

Asst. Atty. General