

Opinion No. 46-4842

January 26, 1946

BY: C. C. McCULLOH, Attorney General

TO: Mr. Don R. Casados State Corporation Commission Santa Fe, New Mexico

{*177} In your letter dated January 25, 1946, you refer to Sub-section (f) of Sec. 68-1325 of the 1941 Compilation, and inquire as to the manner of determining fixed routes inside and {*178} outside city limits, in connection with motor carrier operation transporting passengers.

Specifically, you wish to know whether the total number of miles traveled over fixed routes within and without the city limits should be considered, or whether the longest and most direct route between the extreme points involved should be considered.

Sec. 68-1325, Sub-section (f) provides as follows:

"Neither this act nor any provisions hereof shall apply or be construed to apply to any of the following:

(f) Busses traveling a fixed route, the greater portion of which lies within the boundaries of any one (1) city."

A route is commonly understood to be the course over which the vehicle passes, and in connection with street railways, the route has been held to be the streets along which the tracks are laid.

In Consolidated Freightways vs. U.S. 136 Fed. (2d) 921, the court uses this language:

"The words 'route' and 'routes' are manifestly used to signify the highways where the motor vehicles operate and not the areas between terminal points."

See also Theberath v. City of Newark, 30 Atl. 528, 57 N. J. L. 309; Application of Kassebaum, 7 N. W. (2) 464, 142 Neb. 645; State vs. Peterson, 49 Atl. (2) 835, 136 Me. 165.

In view of the foregoing authorities, I am of the opinion that Subsection (f) contemplates that the entire course of travel under schedule by a bus company, within and without a municipality, should be taken into consideration in arriving at the proportionate percentage of the bus route which may be inside or outside a single municipality.

I am returning herewith your file in connection with this matter.