

## Opinion No. 51-5443

October 9, 1951

**BY:** JOE L. MARTINEZ, Attorney General

**TO:** Hon. Max N. Edwards Assistant District Attorney Hobbs, New Mexico

{\*150} This is in reply to your letter of September 27, 1951, in which you request an opinion from this office as to whether or not the regulations by the Commissioner of the Motor Vehicle Department of the Bureau of Revenue, pursuant to the authority granted by Section 68-138 N.M.S.A., 1941 Compilation, apply to persons who deal in new and used trailer houses. § 68-138 reads as follows:

"Importation of used cars -- Nonresident or unestablished dealer or importer -- Registration -- Bond -- Conditions -- Fee. -- Every dealer in used, or secondhand, motor vehicles who is a nonresident of the state of New Mexico or who does not have a permanent place of business in this state, and every person, firm or corporation who brings any used, or second-hand motor vehicles into the state of New Mexico for the purpose of sale or resale except as a trade-in on a new motor vehicle or another used car, shall within ten (10) days from the date of entry of said motor vehicle into the limits of the state of New Mexico, register such motor vehicle with the motor vehicle division of the bureau of revenue on a form to be provided by it, and under such rules and regulations as may be promulgated by said motor vehicle division of the bureau of revenue from time to time, and shall before said used or second-hand car is put on a used-car lot for sale or offered for sale, or sold, execute a bond with two (2) good and sufficient sureties, or with a surety company duly authorized to do business in the state of New Mexico as a surety or sureties thereon, payable to the state of New Mexico for the use and benefit of the purchaser and his vendees, conditioned to pay all loss, damages and expenses that may be sustained by the purchaser, and/or vendees, that may be occasioned by reason of any fraudulent misrepresentations or breaches of warranty as to freedom from liens, quality, condition, use or value of the motor vehicle being so sold. Said bond shall be in the full amount of the sale price of such motor vehicle but in no event to exceed the sum of one thousand dollars (\$ 1,000.00) and shall be filed with the commissioner of the bureau of revenue of the state of New Mexico by the vendor and be approved by him as to amount, from and as to the solvency of the surety or sureties, and for which service by said commissioner, in registering said vehicle, the vendor shall pay a fee of one {\*151} dollar (\$ 1.00) and a fee of five dollars (\$ 5.00) for each bond so filed and approved, which sums shall be paid into the state treasury to the credit of the general fund."

Section 68-101, N.M.S.A., 1941 Compilation, sub-section (b) defines "motor vehicles" as every vehicle, as herein defined which is self-propelled. This section is a part of the Uniform Motor Vehicle Antitheft Act and the definitions therein given apply to all of the Article.

There is no question that a trailer is not a motor vehicle because it is not self-propelled.

In view of the above statutes, it is my opinion that § 68-138, N.M.S.A., is not broad enough to include new or second-hand trailers and classify them as motor vehicles and that the Motor Vehicle Department is without authority to pass rules and regulations including new and used trailer houses as motor vehicles.

Trusting that this answers your inquiry, I remain