

Opinion No. 66-57

May 9, 1966

BY: OPINION OF BOSTON E. WITT, Attorney General Myles E. Flint, Assistant Attorney General

TO: Hon. Roy W. Davidson, State Representative, P. O. Box 459, Raton, New Mexico

QUESTION

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Is it permissible to use winter tires with short metal studs imbedded in the tire which protrude beyond the surface of the tire on the highways in the State of New Mexico?

CONCLUSION

No.

OPINION

{*69} ANALYSIS

Section 64-20-47 (c), N.M.S.A. 1953 Compilation, provides as follows:

"No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat, or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use farm machinery with tires having protuberances which will not injure the highway, and except also that it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required {*70} for safety because of snow, ice, or other conditions tending to cause a vehicle to skid."

It would be our interpretation that under the above statutory language, the studs imbedded in the winter tires which project beyond the surface of the tire are "a protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire". This is a simple and clear-cut fact question.

Some question has arisen as to how tire chains could be used when metal studded tires may not be used. It is apparent from the statutory section cited above that an exception is clearly made for the use of tire chains.