

**Opinion No. 67-134**

November 7, 1967

**BY:** OPINION OF BOSTON E. WITT, Attorney General

**TO:** Colonel Joseph A. Black Chief New Mexico State Police P.O. Box 1628 Santa Fe, New Mexico

**QUESTION**

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Does Section 64-20-75, N.M.S.A., 1953 Compilation, (Enacted as Chapter 30, Laws of 1963) apply to pickups and trucks as is indicated in the title of the act, or just to automobiles, as indicated in the body of the act?

CONCLUSION

The section applies to pickups and trucks.

**OPINION**

{\*215} **ANALYSIS**

Two questions are raised by your request. One, are the terms "motor vehicle" and "truck or pickup" distinctive and different terms? Two, if they are different, may the title be read as part of the act and illustrate a legislative intent to include trucks or pickups within the Act?

Chapter 30, Laws of 1963, as enacted by the New Mexico Legislature read:

"AN ACT RELATING TO MOTOR VEHICLES; AND REQUIRING SAFETY. BELTS.

.....

Section 1. SAFETY BELTS REQUIRED. -- It is unlawful for any person to buy, sell, lease, trade or transfer from or to New Mexico residents at retail an automobile, which is manufactured or assembled commencing with the 1964 models, unless the vehicle is equipped with safety belts installed for use in the left front and right front seats.

Section 2. TYPE AND MANNER OF INSTALLATION. -- All safety belts required in Section 1 shall be of a type and shall be installed in a manner approved by the division of motor vehicles. The division shall establish specifications and requirements for approved types of safety belts and attachments thereto. The division shall accept, as

approved, all seat belts installations and the belts and anchors meeting the society of automotive engineers' specifications."

The act was written in statutory form as Sections 64-20-75, N.M.S.A., 1953 Compilation (P.S.) and 64-20-76, N.M.S.A., 1953 Compilation (P.S.).

Section 64-1-6 (a) N.M.S.A., 1953 Compilation, defines vehicle in the following manner:

"64-1-6. Vehicles. -- (a) **Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway**, excepting devices moved by human power or used exclusively upon stationary rails or tracks." Emphasis supplied).

Subsection (b) of the above section defines a motor vehicle as follows:

"(b) Motor Vehicle. **Every vehicle which is self-propelled** and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails." (Emphasis supplied.)

Section 64-1-7 (d), N.M.S.A., 1953 Compilation, defines "truck" {<sup>216</sup>} thusly:

"(d) Truck. Every motor vehicle designed, used or maintained primarily for the transportation of property."

It is the opinion of this office that based upon these statutory definitions, a truck or pickup is a vehicle and motor vehicle. The next question is then; is a truck an automobile?

The word "automobile" is derived from the Greek word "autos" meaning self, and the Latin word "mobiles" meaning freely movable, **Mattox v. Pennsylvania Thresh and F. Mut. Casualty Ins., Co.** (Alabama 1964), 160 So. 2d 458. Numerous cases exist standing for the proposition that an automobile is a self propelling vehicle for use on highways or streets, **American Mut. Liability Ins., Co. v. Choput**, 95 N.Y. 200, 60 A.2d 118 (1948); **Williams v. Standard Accident Ins. Co.**, (Calif. 1958), 332 F.2d 1026; **Patrick v. State Farm Mut. Automobile Ins. Co.**, 90 N.J. Super. 442, 217 A.2d 909 (1966). The term "automobile" is synonymous with the term "motor vehicle", **American Mut. Liability Ins. Co., v. Choput**, supra. It was held that an automobile refers to a wheeled vehicle, propelled by gasoline, steam or electricity and used for transportation of persons or merchandise, **Life and Casualty Ins. Co., of Tenn. v. Benion**, 82 Ga. App. 571, 61 S.E. 2d 599 (1950). Finally, at least two courts established that a truck is an automobile. The courts stated that the term "automobile" is a generic term including vehicles of the above descriptions. And that, the courts said included trucks, **Combined American Ins. Co. v. Ganzer**, (Tex. Cir. App. 1961), 350 S.W. 2d 211; **Continental Casualty Co. v. Buckeye Union Casualty Co.** (Ohio 1957).

It is the opinion of this office that pickups and trucks fall within the meaning of "motor vehicle" as used in the act's title. It is also the opinion of this office that pickups and trucks fall within the term "automobile" as used in the body of the act.

This conclusion agrees with the above cited authority. It is the opinion of this office that this conclusion also satisfies the legislative intent in passing such an act. The act was passed to allow drivers and passengers to avail themselves of maximum safety while traveling on a roadway in a moving vehicle. A truck or pickup appears to fall within the scope of that legislative intent.

By: Donald W. Miller

Assistant Attorney General