

Opinion No. 39-3132

May 12, 1939

BY: FILO M. SEDILLO, Attorney General

TO: Mr. Tom Summers, Chief, N.M. State Police, Santa Fe, New Mexico. Attention: A. B. Martinez, Lieut.

{*48} I received your letter of May 9th wherein you inquire as to whether Section 11-703 (b) of the New Mexico Supplement 1938, is still in force and effect. To this I answer in the affirmative.

You also state that the above section provides "that every other vehicle of whatever nature, including buggies and wagons, shall carry on its front one lighted lamp showing a white light visible under normal atmospheric conditions, etc." I am of the opinion that this section does not apply to motor-vehicles other than motorcycles since subsection (b), Section 11-847 of the New Mexico Statutes, Annotated, 1929 Compilation, provides that every motor-vehicle other than motorcycles, road rollers, road machinery, or farm tractors should be equipped with two head lamps.

As to your question where you ask whether Section 11-854 of the New Mexico Supplement, 1938, has any connection whatsoever with Section 11-703 (b) of the New Mexico Supplement, 1938, I will say that the provisions in Section 11-854 have no relation with Section 11-703 (b), but just call for extra requirements for certain types of vehicles.

You further ask whether violations which occur where vehicles appear to have been neglected without having repaired the headlights in cases where crystals and bulbs have been broken need the forty-eight hour warning. To this I will say that under subsection (b), Section 11-847 of the 1929 Compilation, violations of this nature can be prosecuted without the forty-eight hour warning.

This section was not amended or repealed by subsection (b) of Section 11-854 of the New Mexico Supplement, 1938, which reads that where a driver of any motor-vehicle is arrested upon a charge that the lamps, brakes, or steering equipment of such vehicle are not properly adjusted, or are unsafe, or fail to comply with the requirements, he should be allowed forty-eight hours within which to bring such equipment in conformance with the requirements of the Act, but also calls for extra requirements as to the inspection of lights, brakes, and steering equipment.

Trusting that the foregoing sufficiently answers your questions, I am,