

**Opinion No. 41-3719**

February 15, 1941

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. Elliott S. Barker State Game Warden Santa Fe, New Mexico

{\*36} Your letter of February 14, 1941, requests an opinion from this office as to whether or not the laws of the State of New Mexico require the State Game Department to carry fire insurance on state-owned motor vehicles operated by the Game Department.

Section 71-502, New Mexico Statutes Annotated, 1929 Compilation, requires officers and boards charged with the custody of state or county buildings to procure fire insurance thereon. This section requires the insurance of property in the nature of realty and in my opinion should not be construed to include personal property, i. e., motor vehicles.

Chapter 100, Laws of 1933, provides that the State Highway Engineer shall have the care, control, supervision and custody of all state-owned motor vehicles and that the State Highway Engineer may prescribe and enforce rules and regulations for the use of any such motor vehicles. Although the law does not require the State Highway Engineer to secure fire insurance on automobiles owned by the state, liberally construed the provisions of Section 1, Chapter 100, Laws of 1933, might vest in him the authority to prescribe by rule that such insurance be carried. I am of the opinion, however, that since the word "insure" was omitted from the State Highway Engineer's duties, he may not prescribe that state-owned motor vehicles be insured.

There are no provisions in the law requiring that state-owned motor vehicles be insured against loss from fire. I should like to mention in this connection that House Bill No. 104, introduced in the Fifteenth Legislature, vests in the Game Commission (with the consent and approval of the State Board of Finance), the discretion of obtaining or not obtaining fire insurance on property used by that department. Construing the word "property" as used in said bill, motor vehicles are included.

Trusting that the foregoing answers your inquiry, I am

By GEO. H. HUNKER, Jr.

Asst. Atty. Gen.