



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Coke R. Stevenson, Jr.
County Attorney
Kinble County
Junction, Texas

Dear Sir:

Opinion No. O-3517

Re: Are persons engaged in producing wood and cedar posts from the timber on land which they own and which they lease entitled to a farm license on their trucks which haul their such commodity to market?

We are in receipt of your letter of March 19, 1941, in which you request the opinion of this department on the question contained therein as follows:

"I refer you to Section 5a of House Bill 336 passed at the regular session of the Forty Second Legislature providing for registration of a Commercial Farm Truck. In our community there are those who are engaged in producing wood and cedar posts from the timber on their own ranches and also on ranches leased for such purposes, which I would like to have a ruling from your department showing whether or not such persons are entitled to a Farm License on their trucks when engaging in the business of hauling their own wood and posts to market."

On April 10, 1941, Senate Bill No. 43 of the 47th Legislature became a law of this state. Section 4 of said Bill provides as follows:

"Sec. 4. Amend Acts 1929, 41st Legislature, Second Called Session, page 172, Chapter 88, Section 6a, as added Acts 1933, 43rd Legislature, First Called Session, page 82, Chapter 27, Section 1, as amended Acts 1934, 43rd Legislature, Third Called Session, page 75, Chapter 36,

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Section 1, so as to hereafter read as follows:

"Section 6a. When a commercial motor vehicle sought to be registered and used by the owner thereof only in the transportation of his own poultry, dairy, livestock, livestock products, timber in its natural state, and farm products to market, or to other points for sale or processing, or the transportation by the owner thereof of laborers from their place of residence, and materials, tools, equipment and supplies, without charge, from the place of purchase or storage, to his own farm or ranch, exclusively for his own use, or use on such farm or ranch, the registration license fee, for the weight classifications herein mentioned, shall be fifty (50%) per cent of the registration fee prescribed for weight classifications in Section 6 of the Act hereby amended, as amended in this Act; provided further, that it shall be the duty of the Highway Commission to provide license plates distinguishable from license plates used for other commercial motor vehicles using the highways; provided further, if the owner of any commercial motor vehicle, coming within the provisions of this Act, shall use or permit to be used any such vehicle for any other purpose than those provided for in this Act, he shall be guilty of a misdemeanor, and upon conviction, shall be fined in any sum not less than Twenty-five (\$25.00) Dollars nor more than Two Hundred (\$200.00) Dollars, and each use of such vehicle and each permission for such use of such vehicle shall constitute a separate offense; provided, however, that all commercial motor vehicles, truck tractors, road tractors, trailers and semi-trailers as defined in Section 1 of Chapter 23 of the General Laws of the Fifth Called Session of the 41st Legislature, not coming within the provisions of this Act shall be required to pay all registration and license fees prescribed by the other provisions of Chapter 88, General Laws of the 41st Legislature, Second Called Session as amended by this Act."

In the above enactment the legislature included, for the first time, the classification of "timber in its natural state". Unquestionably cedar posts would come within

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this legislative classification. Therefore an individual may in our opinion, operate a vehicle with a farm license thereon as provided in Section 6a, supra, and haul cedar posts out off of land that said individual owns.

Your attention, however, is called to Opinion No. O-3201 of this department. In that opinion we were concerned with a fact situation where an individual used a truck not only to haul his own cattle from his own ranch but also to haul cattle which he purchased from others to market. In answer to the question of whether or not Article 5675a-6a authorized such individual to so operate with only a farm license on his motor vehicle this department ruled as follows:

"In both of the cases you submit in your first two questions the individual is not using a 'commercial motor vehicle' (as defined by the Legislature) only in the transportation of his own poultry, dairy livestock and farm products to market. He is using same for the transportation of products that he purchases from others also. It is apparent that the individual in either case you outline should not be entitled to the reduced license fee as prescribed in the above quoted Article.

"In line with the above reasoning this department ruled in Opinion No. O-527 as follows:

"We are of the opinion, therefore, that the benefits of the Article accrue only to a person who transports his own products to market or other points for sale or processing, and is not for the benefit of a person, as indicated in your inquiry that would be transporting products purchased from another farmer * * *."

"It is the opinion of this department, therefore, that the individuals mentioned in your questions one and two would not be entitled to the 50% reduction on farm truck licenses as defined in Article 5675a-6a, supra."

We believe that the individual who leases a ranch for the purpose of cutting the timber therefrom or one who

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purchases the timber under a straight contract of sale without leasing the land would be in the same position as the cattle trader who purchases cattle from others and hauls same to market. It is the opinion of this department therefore that the individual who purchases timber from others or who leases land for the sole purpose of removing timber therefrom would not be entitled to the "farm license" provided for in Article 8675a-8a, supra. We are additionally influenced to such conclusion by the fact that our Opinion No. O-3201, supra, was written prior to the enactment of said Senate Bill No. 43 and the legislature readopted the phraseology "his own poultry, etc." that appeared in the Act prior to its amendment.

We trust that the foregoing fully answers your inquiry.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Billy Goldberg
Billy Goldberg
Assistant

BG:lh

APPROVED APR 30, 1941

Glenn R. Llewellyn

ACTING ATTORNEY GENERAL OF TEXAS

