



THE ATTORNEY GENERAL  
OF TEXAS

Grover Sellers

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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Hon. W. J. Townsend  
County Attorney  
Angelina County  
Lufkin, Texas

Opinion No. 0-6349  
Re: Passenger automobile used as  
commercial motor vehicle must be  
registered as commercial motor ve-  
hicle, and operator of said auto-  
mobile is required to hold a com-  
mercial operator's license.

Dear Sir:

We have received your recent request for an opinion,  
quoted as follows:

"I beg leave to advise that there is a  
citizen of this county operating his passenger  
automobile on the state highways of this section  
of the state, transporting and delivering mer-  
chandise therefrom to merchants only.

"I have advised him that it is illegal for  
him to thus use his passenger automobile, licensed  
as such, for the purposes of transporting and de-  
livering merchandise therefrom, and that in order  
for him to use or drive any motor vehicle lawfully  
for the purpose of transporting and delivering mer-  
chandise therefrom to merchants, that he must first  
have license as a 'Commercial Operator', as shown  
by paragraph (N) of the Texas Highway laws.

"Please advise me as to your construction of  
this law. May any one use lawfully his passenger  
automobile, as a vehicle for the transporting and  
delivering merchandise therefrom, over the highways  
of this state, without first taking out a 'Commer-  
cial Operators' license?"

Article 6675a-1, (1), Vernon's Annotated Civil Stat-  
utes, defines a "commercial motor vehicle" as "any motor vehi-  
cle (other than a motorcycle or passenger car) designed or used  
primarily for the transportation of property, including any  
passenger car which has been reconstructed so as to be used,  
and which is being used, primarily for delivery purposes, with  
the exception of passenger cars used in the delivery of the  
United States mails." (underscoring added)

Art. 6687b, Section 1, (n), V.A.C.S., defines a "commercial operator" as "every person who is the driver of a motor vehicle designed or used for the transportation of property, including all vehicles used for delivery purposes, while said vehicle is being used for commercial or delivery purposes." (underscoring added)

The said next above articles are "in pari materia", and will, therefore, be taken, read and construed together, and any conflict between their provisions will be harmonized, if possible. See 39 Tex.Jur. 254.

Our Opinion No. 0-3936 holds in regard to a similar question that the test to be applied under the foregoing definition of a "commercial operator" is the use to which the vehicle is being put. We believe this test is also applicable to the foregoing definition of a "commercial motor vehicle." We herewith enclose a copy of said Opinion No. 0-3936.

The question to decide is whether the vehicle is being used primarily for commercial or delivery purposes in the transportation of property. This fact we leave to the determination of the proper authorities in each case.

Therefore, it is our opinion that a passenger automobile, which is being used primarily as a commercial motor vehicle, should be registered as a commercial motor vehicle, and the operator of same is required to hold a commercial operator's license.

We trust the foregoing fully answers your question.

APPROVED MAY 12, 1945  
/s/ Carlos C. Ashley  
FIRST ASSISTANT  
ATTORNEY GENERAL

APPROVED: OPINION COMMITTEE  
BY: BWB, CHAIRMAN

RLJ:LJ:wb

Yours very truly

ATTORNEY GENERAL OF TEXAS

By /s/ Robert L. Lattimore, Jr.  
Robert L. Lattimore, Jr.,  
Assistant