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SEP 18 2008

OPINION COMMITTEE

September 11, 2008

FILE # ML-45836-08

I.D. # 45836

The Honorable Greg Abbott
Attorney General of Texas
209 W. 14th Street
Austin, Texas 78701

RQ-0743-GA

Dear General Abbott:

As Chair of the Senate Committee on Transportation and Homeland Security, I would like to request the following opinion regarding the interpretation of Section 648.101, Transportation Code, as amended by HB 313, Acts of the 80th Legislature, Regular Session, 2007. Section 648.101 provides an exemption from registration in this state for a foreign commercial motor vehicle that satisfies certain requirements. As amended by HB 313, Section 648.101 reads:

- Section 648.101. REGISTRATION EXEMPTION IN BORDER COMMERCIAL ZONE. (a) A foreign commercial motor vehicle is exempt from Chapter 502 and any other law of this state requiring the vehicle to be registered in this state, including a law providing for a temporary registration permit, if:
- (1) the vehicle is engaged solely in transportation of cargo across the border into or from a border commercial zone;
 - (2) for each load of cargo transported the vehicle remains in this state:
 - (A) not more than 24 hours; or
 - (B) not more than 48 hours, if:
 - (i) the vehicle is unable to leave this state within 24 hours because of circumstances beyond the control of the motor carrier operating the vehicle; and
 - (ii) all financial responsibility requirements applying to the vehicle are satisfied;
 - (3) the vehicle is registered and licensed as required by the law of another country as evidenced by a valid metal license plate attached to the front or rear of the exterior of the vehicle; and
 - (4) the country in which the person that owns or controls the vehicle is domiciled or is a citizen provides a reciprocal exemption for commercial motor vehicles owned or controlled by residents of this state.
- (b) A foreign commercial motor vehicle operating under the exemption provided by this section and the vehicle's driver may be considered unregistered if the vehicle is operated in this state outside a border commercial zone or in violation of United States law.
- (c) Notwithstanding any reciprocity agreement between this state and another state of the United States, a foreign commercial motor vehicle that engages primarily in transportation of cargo across the border into or from a border commercial zone must be:
- (1) registered in this state; or
 - (2) operated under the exemption provided by this section.

Section 648.101 (a)(4), Transportation Code, provides that the exemption from registration in this state for a foreign commercial motor vehicle applies only if the country in which the person that owns or controls the vehicle is domiciled or is a citizen provides a reciprocal registration exemption for commercial motor vehicles owned or controlled by residents of this state.

I ask your opinion whether the term "controlled" as used in Section 648.101(a)(4), Transportation Code, as amended by HB 313 includes a person or entity that is domiciled in or a citizen of a country other than the United States, but that does not have a vehicle title or the ability to register that vehicle in the United States.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Carona".

John Carona, Chairman
Senate Committee on Transportation and Homeland Security

JJC/AC