OPINION
64-182

August 4, 1964 (OPINION)

Mr. Weldon L. Haugen

Motor Vehicle Registrar

RE: Motor Vehicles - Licenses - Self-propelled Mobile Homes

This is in response to your letter in which you ask for an opinion on how a "self-propelled mobile home should be licensed." The vehicle in question was manufactured and built as a mobile home on a truck chassis and contains its own power unit. You further advise that you have now an application for registration of such a unit. You further advise that it is your "intention to license these, using the same fee schedule as passenger cars. This makes the license fee fairly high since they are a heavy machine. We have a Code definition of a house care in the Code. This does not qualify as a car." The specific question is "what fee schedule do we use in computing a license fee on this self-propelled mobile home?" The vehicle in question, we are advised, is a reconstructed one-ton truck.

As you mentioned in your letter, the Legislature defined a house care but there is no definition for a mobile home. Section 39-04-19 (2d), as amended, provides as follows:

> "A house car shall be subject to registration at the corresponding rate prescribed for trucks under section 39-04-19, and the registrar shall issue distinctive plates for each house care registered."

A house car is defined in section 39-01-01, subsection 21.1, as amended, of the North Dakota Century Code, as follows:

> "'House care' shall mean a bus as defined in this section which has been reconstructed for private use as sleeping or living quarters; * * *."

A bus is defined in subsection 3 of section 39-01-01 of the North Dakota Century Code, as follows: (As amended.)

> "'Bus' shall mean every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons, and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation; * * *."

The provisions pertaining to a house car were enacted by chapter 265 of the 1963 Session Laws. It is significant to observe that the definition of a house care was passed as proposed in House Bill No. 727. However, as to the license fee, the original language of House Bill No. 727, which amended subdivision "d" of subsection 2 of section 39-04-19, merely provided as follows:

"d. House cars: Twenty-five dollars."

This provision was amended in the Senate, (See Senate Journal 859, 1963.), to the language as it is now found in the Code and quoted above.

By putting together the various references pertaining to the statutory definition of a house car, the following composite definition would result: A house car shall mean a motor vehicle designed for carrying more than ten persons and used for transportation of persons and every motor vehicle, other than a taxicab, designed and used for transportation of persons for compensation, which has been reconstructed for private use as sleeping or living quarters.

Generally motor vehicles are classified for license fee purposes according to weight, use, horsepower, value of vehicle and other similar classifications or combinations thereof. In researching this question, no classification was found which was based upon what the vehicle formerly was. It would seem that a classification, in order to satisfy the constitutional requirements, would have to be based on what the vehicle is and not what it was. For a classification to be fair and just, the classification for tax purposes must be imposed on the vehicle as it is and not what the vehicle was. It would appear that the tax or classification is on the object as it exists and it is being used rather than from what it was constructed.

In examining the composite definition, it would appear that the vehicle must have been one designed for carrying more than ten passengers. That is, the motor vehicle reconstructed for sleeping or living quarters must have been reconstructed from a vehicle designed for carrying more than ten passengers. This appears to be an unrealistic basis for making any classification. It could also mean that every vehicle designed and used for transportation of persons for compensation which has been reconstructed for private use as sleeping or living quarters.

We are familiar with the rule of law which relates to legislative definitions which, in effect, provide that statutory or legislative definitions supersede the commonly accepted dictionary or judicial definitions and that such definitions are binding upon the courts. (50 Am. Jur. section 262, page 254 and 82 C.J.S. section 315, page 536.)

While the foregoing has been the accepted rule in many instances, it is still necessary to interpret and construe the language of the statutory definition itself. In so doing every effort must be made to determine the legislative intent. We are familiar with the rule of law which does not permit the interpretation and construction of a statute where the language is clear and unambiguous. However, in attempting to determine what classification the vehicle in question must be placed in, it becomes necessary to construe the language to determine whether or not the vehicle in question can come within the statutory definitions. It is further observed that neither the terms "passenger vehicle" nor "self-propelled mobile home" are defined.

In determining the meaning of words, resort to the dictionary is not a final or conclusive step. The North Dakota Supreme Court in State v. Olson, 26 N.D. on page 322, said:

> "Dictionaries do not give to words their meaning. The meaning of most of our words were given by usage long before dictionaries were ever heard of. All the dictionary does is to chronicle that which has been done. They are added to and different meanings are given to the same word as the word comes to be used in a different sense. * * *"

The original House Bill No. 727 merely provided that the registration or license fee for a house care be $25.00. It can be assumed that the drafters of the original bill were not too much concerned with the language and semantics in defining the subject made on the presumption that the fee for such vehicle was fixed. However, by amending the original bill, the fee was made flexible to correspond to the weight of the vehicle, which is a classification employed in this state for most vehicles. The definitions discussed so far, including the composite definition, are narrowly limited to the extend that their constitutionality may be doubtful.

The definitions discussed so far are found in section 39-01-01 of the North Dakota Century Code and are prefaced with the following language: "In this title, unless the context or subject matter otherwise requires: * * *."

We not come to another definition found in section 39-04-01, subsection 4, of the North Dakota Century Code, which provides as follows:

> "'Reconstructed vehicle' shall mean any vehicle of a type required to be registered hereunder materially altered from its original construction by the removal, addition or substitution of essential parts, new or used. A reconstructed vehicle may be registered upon the payment of the same fees for the calendar year that are paid for a motor vehicle of comparable make and year as the reconstructed vehicle; * * *."

It must be observed that the definitions under section 39-01-01 are designed to be used for all of title 39, whereas the definition found in section 39-04-01 just cited pertains only to chapter 39-04 of the North Dakota Century Code. In this respect the former is a general definition whereas the latter is a more specific definition. The rule of law with reference to such provisions is that where a general statute is in conflict with a special statute, every effort should be made to reconcile the two statutory provisions, and if this is impossible, the special statute will prevail over the general statute. In this instance, the conflict is not irreconcilable. The definition as found in section 39-04-01 can stand independently of the former definitions. The enactment of the definitions under section 39-01-01 did not repeal section 39-04-01, subsection 4. Repeal by implication is frowned upon. For that matter, section 39-04-01, subsection 4, is found in the chapter which deals with the classification of vehicles for tax free and license purposes.

The vehicle in question, we have been advised, was a one-ton truck

which has been reconstructed into a self-propelled mobile home. In accordance with the provisions of section 39-04-01, subsection 4, it is necessary to determine which classification is more appropriate to the reconstructed vehicle. In other words, an effort must be made to determine a comparable make and year in the existing classifications for this reconstructed vehicle. In examining the various definitions and classifications for tax fee purposes, it becomes eminent that the vehicle in question fits the classification or definition of a house car more than any other classification or definition. On the basis of this conclusion there is no further need to discuss the other definitions.

It is therefore our opinion that the vehicle in question is a self-propelled mobile home which was reconstructed and build into a mobile home on a truck chassis which contains its own power unit, which for purposes of license and taxing is subject to the rate prescribed for house cars under section 39-04-19 of the North Dakota Century Code, and which is the same as that for trucks.

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