

**OPINION
65-192**

April 1, 1965 (OPINION)

Mr. Weldon L. Haugen

Motor Vehicle Registrar

RE: Motor Vehicles - Registration - Definition

This is in reply to your letter of March 29, 1965, in which you requested an opinion of this office relative to section 39-04-44.1 of the North Dakota Century Code, as amended. You state the following question and facts relative thereto:

"Does 'a vehicle otherwise properly registered' mean a current registration from any state, or does it mean the vehicle must have a current North Dakota license?

"Up until the 1963 session, there was disagreement as to what fees should be charged a mobile home mover. I refer you to 39-18, 1961 N.D.C.C. which is, of course, the regulations the Highway Department operated under. This law was in effect up until the 1963 session. It was because of this disagreement that we asked the 1963 session to clarify the law.

"Under 39-04-44.1, the Motor Vehicle Department asked that a mobile home mover having a current registration from any state secure one \$50.00 in-transit certificate for each towing truck, and one \$15.00 in-transit plate for each mobile home being towed. The Truck Regulatory Division does not agree. They maintain that the mobile home mover must license or pay mile tax."

Section 39-04-44.1 of the North Dakota Century Code, as amended, provides:

"TRANSPORTATION CERTIFICATES AND IN-TRANSIT PLATES. - A vehicle otherwise properly registered may be used for transporting other vehicles not registered provided that the transporting vehicle have displayed a distinctive certificate which shall be available from the motor vehicle registrar upon payment of an annual fee of fifty dollars and provided further that each transported vehicle have displayed thereon a distinctive in-transit plate, which shall be transferable, which shall be available from the motor vehicle registrar upon payment of fifteen dollars for each such annual in-transit plate."
(Emphasis supplied)

Subsection 1 of section 39-04-18 of the North Dakota Century Code provides in part:

1. Except as provided in this section, every motor vehicle as defined in subsection 2 of section 39-01-01, operated or

intended to be operated upon any highway, road, or street in this state shall be registered annually with the motor vehicle registrar. Any vehicle being operated on the highways, roads, or streets of this state shall display such license plates as are furnished by the motor vehicle registrar upon the payment of the fees prescribed in this chapter.

* * *."

Subsection 2 of section 39-04-18 of the North Dakota Century Code, as amended, provides in part:

2. The following motor vehicles may be operated upon the highways, roads, and streets of this state without being registered, under such limitations as are herein specified, provided, however, that whenever the reciprocity commission determines that it is to the best interest of the state of North Dakota and determines by reciprocal agreement or otherwise that as great or greater privileges are not granted North Dakota residents while traveling in other states or territories, they may cancel or limit the application of any exception to residents or motor vehicles from such other state or territory:

* * *."

The exceptions listed thereunder (see e.g., subdivision 2(c)) and the language used in the provision quoted above, indicate clearly that by the term "registered" or "registration" the statutes refer to registration in North Dakota. If the legislature had intended the term "otherwise properly registered" to mean registered in another state it would appear they would have indicated as much by so specifying. Except where it specifically refers to registration in another state, it also clearly appears the statutes consider a vehicle not registered in this state (even though registered in another state) as not being "registered" within the meaning of the North Dakota law.

Section 39-04-19 of the North Dakota Century Code, as amended, sets forth the registration fees or mile tax which are to be paid for motor vehicles required to be registered. Subsection 1 sets forth the fees which nonresidents electing to pay mile tax in lieu of registration, when authorized to do so by the State Highway Commissioner, are required to pay. We would also note that chapter 39-19 of the North Dakota Century Code authorizes the Reciprocity Commission to execute agreements, arrangements, or declarations involving the reciprocal use of the highways of this state by vehicles excepted in part or in full from registration requirements or mile tax payments in lieu thereof.

In view of the fact the legislature, except where it clearly indicates to the contrary, has used the term "registered" to mean registered under the laws of the state of North Dakota and not of some other state, it is our opinion that the term "a vehicle otherwise properly registered" means registered with the state of North Dakota and does not mean a current registration from any other

state. If such vehicle is not registered in the state of North Dakota, it would also be our opinion that the vehicle must pay the mile tax in lieu thereof in order to be properly operated upon the highways of North Dakota. The requirement of the transportation certificate and in-transit plates would appear to be charges over and above the regular registration fee or, in lieu thereof, the mile tax.

HELGI JOHANNESON

Attorney General