

**OPINION
71-225**

November 9, 1971 (OPINION)

Mr. Charles Bosch

Registrar

Motor Vehicle Department

RE: Motor Vehicles - Commercial Trailers - Registration Plates

This is in response to your letter in which you state the following:

"House Bill 1553, passed by the 1971 North Dakota Legislative Session, provides that vehicles used in commercial freighting must be registered annually with the Motor Vehicle Department. Section 39-04-19(4) of the North Dakota Century Code provides for a \$10.00 identification plate fee for all commercial trailers. Also note Attorney General's Opinion dated January 20, 1961, to Weldon Haugen, Motor Vehicle Registrar.

"House Bill 1553 was introduced and passed by the 1971 Legislature with the intent to require all commercial trailers to display an identification plate for two purposes: 1. To provide identification for law enforcement purposes and; 2. To enforce the North Dakota title registration and motor vehicle excise tax laws.

"Inasmuch as North Dakota subjects the truck tractor (power unit) to registration fees subject to total gross weight of the truck-tractor-trailer combination, and 39-04-19(4) of the North Dakota Century Code makes specific mention of a trailer 'identification plate' for a fee of \$10.00 regardless of the size of a commercial trailer, we are of the opinion that this \$10.00 fee is a trailer identification plate fee and should not be considered a regular registration fee."

You further state:

"We would appreciate an opinion from your office defining this as either an identification plate fee or a regular registration fee in order that we can administer the law properly."

As is pertinent to the question submitted, Section 39-04-18 was amended by Chapter 361 of the 1971 Session Laws. The first paragraph thereof provides as follows:

"Except as provided in this section, every motor vehicle as defined in subsection 32 of section 39-01-01 and vehicles used in commercial freighting, as defined in subsection 6 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."
(underscoring ours)

The underscored language was the result of the amendment by Chapter 361 in 1971. Commercial freighting is defined in Section 39-01-01(6) as follows:

6. 'Commercial freighting' shall mean the carriage of things other than passengers, for hire, except that such terms shall not include:
 - a. The carriage of things other than passengers within the limits of the same city or village;
 - b. Carriage by local dray lines of baggage or goods to or from a railroad station from or to places in such city or village or in the immediate vicinity thereof, in this state, and not to exceed two miles from the corporate or recognized limits of said city or village;
or
 - c. Hauling done by farmers for their neighbors in transporting agricultural products to or from market;"

Subsection 4 of Section 39-04-19 came into being prior to 1961. At the time Subsection 4 came into being, the first paragraph of Section 39-04-18 only referred to motor vehicles as defined in Subsection 32 of Section 39-01-01. Under the then existing law an opinion was issued by this office dated January 20, 1961, addressed to Weldon Haugen, the motor vehicle registrar, which concluded that the license plates for trailers were basically for identification purposes and not for registration purposes. However, because of the amendment resulting from the enactment of Chapter 361 of the 1971 Session Laws, this concept has been considerably altered. The amended provision of Section 39-04-18 concerns itself with the registration of vehicles. The Legislature specifically included commercial freighting vehicles as being required to be registered.

In examining Section 2 of Chapter 361 entitled legislative intent, it becomes apparent that the motor vehicle department is to issue titles to trailers as distinguished from identification plates. The issuing of a title implies that the vehicle be registered. The legislative intent is set out as follows:

"SECTION 2. LEGISLATIVE INTENT.) It is the intent of the legislature that in the administration of this Act, the motor vehicle department will issue titles to any trailer which was purchased prior to July 1, 1965, and which will be required to be titled by this Act, without collecting motor vehicle excise tax."

Sections 1-02-08 and 1-02-09 both in substance provide that if a conflict exists between two statutes passed in the same session, the one later in time shall prevail. This concept applies as well, if not more so, to statutes passed in different sessions. If the statutes are in conflict, the one adopted at a later date generally prevails unless legislative intent can be established to the

contrary.

In this instance legislative intent clearly supports the conclusion that the amended version of Section 39-04-18 is to apply. Consequently, Subsection 4 of Section 39-04-19 must be construed to harmonize with the amended provision of Section 39-02.1-18.

It is therefore our opinion that trailers coming within the definition of commercial freighting must be registered and that the fee is as provided for in Section 39-04-19(4) applies. The plates issued for such a commercial freighting vehicle are not mere identification plates, but are actually registration plates.

HELGI JOHANNESON

Attorney General