

**OPINION  
73-285**

March 8, 1973 (OPINION)

Colonel Ralph M. Wood  
North Dakota Highway Patrol  
Capitol Building  
Bismarck, ND 58501

RE: Section 39-04-18, N.D.C.C.  
Vehicles Required to be Registered

Dear Colonel Wood:

Your request, dated March 1, 1973, in asking for an opinion from this office states:

"A question has been raised relative to the provisions of Section 39-04-11 of the North Dakota Century Code. Specifically, the question is whether or not a contractor's vehicles working on highway construction projects, either on new construction or old highways under construction, which are not open to the general public need to be licensed. In addition, are there any other sections of Chapter 39-04 of the North Dakota Century Code which contractor's vehicles working on the above described highway construction projects need to comply with?"

In replying to your first question, it is necessary to define the words "highway" and "contractor's vehicles". Subsection 21 of Section 39-01-01, N.D.C.C., defines "highway" as meaning ". . . the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel". There is not statutory definition of "contractor's vehicles"; but of course, common knowledge tells us that contractors own passenger vehicles, pickups, trucks, cranes, self-propelled scrapers, motor graders, front-end loaders, backhoes, tractors and road rollers.

Subsection 32 of Section 39-01-01, N.D.C.C., defines "motor vehicle" as including ". . . every vehicle which is self-propelled . . ." and therefore all of the above mentioned "contractor's vehicles" are "motor vehicles".

Section 39-04-18, N.D.C.C., only requires the annual registration of motor vehicles operated or intended to be operated upon any highway, road, or street in this state. The provisions of Section 39-04-11, N.D.C.C., and applies to ". . . road rollers and other road construction or maintenance machinery that cannot be operated on the highways and streets of this state in a normal operating manner".

In an earlier opinion to the Motor Vehicle Registrar, dated February 4, 1964, we said that this exception or exemption must be strictly construed and therein advised that vehicles with fixed loads, such as diggers, cranes and certain types of excavators which are self-propelled, capable of moving under their own power from place to

place, able to move on the highway at relatively high speed, and mounted on rubber tires, do not come within the exemption.

It would be impractical for this office to give you a specific answer to you second question as to any other section in chapter 39-04, N.D.C.C., which must be complied with except to refer you to the requirements of section 39-04-22, N.D.C.C., which obligates public construction contractors to file a statement with the Motor Vehicle Registrar identifying unregistered trucks used.

Sincerely yours,

Allen I. Olson

Attorney General