

OFFICIAL OPINION NO. 79-47, Compensation plates on vehicles, exceptions

December 17, 1979

Mr. Richard P. Green
State's Attorney
Kingsbury County
De Smet, South Dakota 57231

Official Opinion No. 79-47

Compensation plates on vehicles, exceptions

Dear Mr. Green:

You have requested an official opinion from this office based on the following factual situation:

FACTS:

Kingbrook Rural Water System owns a pickup truck with a gooseneck trailer on which transports a back hoe and related equipment for the purposes of maintaining the main water lines and for digging hook-ups from the main line to farm houses and pasture taps. The pickup and trailer are licensed under South Dakota law, but do not have compensation plates on the vehicles. Kingbrook Rural Water System has been notified by the South Dakota Highway Patrol that there must be compensation plates on the vehicles.

Based on the above factual situation, you have asked the following questions:

QUESTIONS:

1. Is a pickup truck with a gooseneck trailer on which is transported a back hoe and related equipment which is used for the maintenance of a water line and the hook-up from the main line to farm houses and pasture taps involved in the construction of farm or ranch irrigation systems and therefore exempt under SDCL 32- 9-3(10)?
2. Is a pickup truck with a gooseneck trailer on which is transported a back hoe and related equipment which is used for maintaining a main water line and for digging in hook-ups from

the main water line to farm houses and pasture taps exempted from the definition of a commercial motor vehicle because the vehicles are used in connection with water conservation practices on ranches and farms under SDCL 32-9-3(10)?

SDCL 32-9-3 reads, in part, as follows:

Exceptions from definitions of motor carrier and commercial vehicle. For the purposes of this chapter, the following do not come within the definition of "motor carriers" or "commercial vehicles":

(10) Except as provided in section 32-9-3.3, any motor vehicle, trailer, semitrailer, motor propelled vehicle chassis which is used for the construction of township roads, stock water dugouts, dams, farm or ranch irrigation systems or other soil and water conservation practices on farms and ranches or infrequently uses the highways of this state in the course of highway construction or maintenance.

In requesting this opinion you have remarked that possible purchase of compensation plates is a "gray area." That remark is amply justified in view of the numerous opinions which this office has previously been called upon to issue in connection with SDCL 32-9-3, and the several amendments of that statute by successive sessions of the Legislature.

Subdivision (10) of 32-9-3, the interpretation of which is the object of your request, prior to 1977, together with present subsection (3), which was designated as subsection (5) are key provisions. The 1977 session of the Legislature made that separation and redesignation and made deletions, insertions, additions to, and changes of punctuation and phraseology as to the new subsection (10). The 1978 session of the Legislature made further substitution of language in that subsection, and the 1979 session of the Legislature inserted "farm and ranch irrigation systems."

This opinion is premised on the assumption that the members of the last several sessions of the Legislature were familiar with the nature of rural water systems operating in the state, and considered the effect on such water systems in making the changes which have been made to SDCL 32-9-3(10).

The overall effect of the last several changes to subsection (10) indicates a broadening, rather than a narrowing of exceptions to the requirement for compensation plates, insofar as farms and ranches are concerned. Although the usage to which this particular equipment

is put may not be the most "direct involvement" as to "farm and ranch irrigation systems," or "other soil and water conservation practices," it is my opinion that the Legislature intended to exempt equipment in such a usage from the requirement for compensation plates. It is to be noted that SDCL 32-9-3.3, with which compliance is required by the terms of 32-9-3(10), requires a certification that the vehicle or equipment is operated on highways only infrequently. That requirement appears to also indicate a broad interpretation of the exemption from compensation plates.

The answer to question number 1 is "yes."

The answer to question number 2 is "yes."

Respectfully submitted,

Mark V. Meierhenry
Attorney General

MVM:CBL:esp