

OPINION 71

OFFICIAL OPINION NO. 71

November 17, 1950.

Mr. Charles F. Fleming,  
Secretary of State and  
Commissioner of Bureau of  
Motor Vehicles,  
State House,  
Indianapolis, Ind.

Attention: Mr. B. B. McDonald,  
Assistant Director,  
Bureau of Motor Vehicles.

Dear Sir:

I have your letter requesting an official opinion as follows:

“(1) Is \$5.00 the proper fee for a well driller mounted on a semi-trailer?”

“(2) What is the fee for a drill mounted on a 4-wheel trailer?”

“BRS 1933, Section 47-2402, Sub-section K, Pocket Supplement, defines ‘Farm Machinery’ as: ‘Every grain and bean separator, combine, corn picker, ensilage cutter, corn sheller, shredder, hay rack, manure spreader, portable saw mill, *all well drilling machinery*, and all seeding, cultivating and harvesting machinery, and no registration thereof, nor fee therefor shall be required by this Act.’

“BRS 1933, Section 47-2801, Sub-section C, Pocket Supplement, provides for the registration and licensing of vehicles in the second division, that all owners of semi-trailers used with a tractor shall pay such fees for the use of the public highways based upon declared gross weight, ranging from 14,000 pounds at \$65.00 to 52,000 pounds or over at \$300.00, and each additional semi-trailer to be used with a tractor, licensed as above, \$5.00.

“This same section also provides that the owner of any motor vehicle of the second division having a corn

sheller, a well driller, hay press, clover huller, or farm machinery permanently mounted thereon and used solely for transporting the same shall pay the license fee of \$5.00 and shall be exempt from the other fees provided in this Act.

“In view of the apparent confusion that exists, we respectfully request your official opinion on this matter.”

Burns 47-2402, to which you refer, is Section 2, Chapter 304 of the Acts of 1945. Chapter 304 of the Acts of 1945 is now our basic motor vehicle law. Section 2 reads in part as follows:

“(h) Farm tractor.—Every motor vehicle designed and used primarily as a farm implement for drawing farm machinery, including plows, mowing machines, harvesters and other implements of husbandry, used on a farm and when using the public highways in traveling from one field or farm to another, or to or from places of repairs, and shall be exempt from registration or the display of license number plates or the payment of any fee. Said term shall also include the wagon, trailer or other vehicle pulled by a farm tractor.

“\* \* \*

“(k) Farm machinery.—Every grain and bean separator, combine, corn picker, ensilage cutter, corn sheller, corn shredder, hay raker, manure spreader, portable saw mill, all well drilling machinery, and all seeding, cultivating and harvesting machinery, and no registration thereof nor fee therefor shall be required by this act.”

Section 64 of Chapter 304 of the Acts of 1945, which has been amended by Section 3 of Chapter 258 of the Acts of 1949, found in Burns 47-2801, provided before it was amended that a farm tractor used in transportation, including the trailer, wagon or vehicle pulled, three dollars (\$3.00). As amended that section divides motor vehicles into two divisions. The second division is defined as follows:

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“Second: The second division shall consist of vehicles which are designed and used for the pulling or carrying of freight, goods, wares, merchandise, or property of any kind, including trucks, trailers, semi-trailers and tractors, excepting as hereinafter provided; also vehicles, motor cars or motor busses designed and used for the carrying of more than seven (7) persons.”

In the fees for vehicles of the second division it is provided:

“Except as next provided, this section shall not be construed to include vehicles or persons expressly exempted from registration by other provisions of this act. The owner of any motor vehicle of the second division having a corn sheller, a well driller, hay press, clover huller or farm machinery permanently *mounted thereon and used solely for transporting the same*, shall pay the license fee of five dollars (\$5.00) and shall be exempt from the other fees provided in this act, but no such owner shall be entitled to any reduction in such five dollars (\$5.00) license fee for the reason that the license is granted at such time that the license period may be less than a calendar year.”

From a study of these pertinent statutes it becomes apparent that the classifications “farm tractor” and “farm machinery” are mutually exclusive. That is, a farm tractor is a vehicle which pulls farm machinery so that a vehicle used to pull well drilling machinery would be a farm tractor, while a vehicle not capable of propelling itself and containing well drilling machinery would be farm machinery. Thus it is apparent that under the 1945 Act a vehicle used to pull well drilling equipment would be subject to a \$3.00 fee and a vehicle containing well drilling equipment itself would be farm machinery and as such not subject to licensure.

The applicable portion of Section 47-2801 begins by excluding vehicles expressly exempted from registration by other provisions of the Act. As we have just noted a trailer or semi-trailer containing well drilling equipment comes within the definition of farm machinery and as such is expressly exempt from registration. The provisions of this section relating to vehicles on which there is mounted well drilling equipment

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seem to me to clearly refer to a self-propelling vehicle which, when construed with the applicable provisions of Section 2 of the 1945 Act, would not be exempt from registration.

Therefore, it is my opinion that no fee is required for a well driller mounted on a semi-trailer or on a four-wheel trailer.

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OFFICIAL OPINION NO. 72

November 28, 1950.

Mr. Edwin Steers, Sr.,  
State Election Board,  
108 East Washington Building,  
Indianapolis, Indiana.

Dear Sir:

I have your request dated November 25, 1950 for an official opinion as follows:

“We would like to have an opinion as to the status of the newly-elected Treasurer of Marion County and just when he should take office.

The facts are that in 1948 a Treasurer was duly elected for a two-year period, beginning January 1, 1950. Thereafter, he resigned and the present acting Treasurer was appointed to fill the vacancy caused by this resignation of the duly elected Treasurer. In the 1950 General Election a new Treasurer was elected. The question is whether or not he will take office on January 1, 1951. If the duly elected Treasurer had continued to hold office and had not resigned, the newly elected Treasurer would not have taken office until January 1, 1952.”

The office of Treasurer of Marion County is a constitutional office, created by Section 2, Article 6 of the Constitution of Indiana which provides that a County Treasurer shall be elected for a period of two (2) years and shall not serve more than four (4) years in any period of six (6) years.