

VOLUME NO. 36

Opinion No. 26

MOTOR VEHICLES — Licenses — Driver's License — Implements of Husbandry; MOTOR VEHICLES — Registration — Implements of Husbandry; Sections 31-125, 31-126, 32-2124.1, 53-104, R.C.M. 1947.

HELD: 1. A pickup truck, even though specially modified so as to qualify as an "implement of husbandry", is a "motor vehicle" under Title 53 and is subject to registration and licensing before being operated on public roads.

2. The driver of a pickup truck need not have a valid driver's license if such vehicle is an "implement of husbandry".

October 2, 1975

Mr. W.G. Gilbert, III
Beaverhead County Attorney
15 South Idaho Street
Dillon, Montana 59725

Dear Mr. Gilbert:

You have requested my opinion relative to the following factual situation:

A ranch owns land on both sides of a state highway. An employee of the ranch had driven an unlicensed pickup truck along the highway for approximately one mile, when he was stopped and ticketed by a highway patrolman. The truck was outfitted as an "irrigator pickup" and was in the process of moving from one field to another. The employee carried no valid driver's license.

Your questions are:

1. Is such vehicle an "implement of husbandry" and therefore entitled to operate on a public road without being registered and licensed as a "motor vehicle"?
2. May the ranch employee drive such vehicle without carrying a valid driver's license?

From all indications, the "irrigator pickup" appears to be an "implement of husbandry" within the commonly understood meaning of that term. An implement of husbandry is something necessary to the carrying on of the business of farming, without which the work cannot be done. **Reaves v. State**, 50 S.W.2d 286 (Texas 1931). According to 91 A.L.R. 423, the manifest tendency of the cases is to apply the exceptions of motor vehicles used for farm purposes rather liberally to effectuate the apparent purpose of the legislature. It has thus been held that a corporation's trucks used in hauling water to citrus trees on its land and in carrying gasoline and oil to its tractors were implements of husbandry and therefore not subject to the vehicle registration tax. **Allred v. J.C. Englemen, Inc.**, 54S.W.2d 352 (Texas 1932). The same is true of a truck used exclusively in farm business, but which was operated temporarily on the highway, and of a truck used exclusively in delivering and applying liquid

fertilizer. **Bean v. Reeves**, 77 S.W. 2d 737 (Texas 1934); **State v. Bishop**, 132 N.W.2d 455 (Iowa 1965). I do not necessarily refer to these authorities as controlling precedent for the instant case, but in the absence of a Montana statute defining implements of husbandry they are worthwhile guides.

Our Motor Vehicle Code, however, makes no broad exceptions for implements of husbandry. Section 53-104, which defines a motor vehicle for the purpose of registration and licensing, provides:

The word "motor vehicle" as used in this title shall include trailers, semitrailers, automobiles, auto trucks, motor cycles, cycle motors, and all other vehicles propelled by their own power, as used upon the public highways of this state; excepting steam or gas tractors, or self-propelled wheelchairs or similar vehicles operated by invalids.

Clearly, the only farm vehicles exempt from the requirements of Title 53 are "tractors". The irrigator pickup is still essentially a "truck" and must be registered and licensed if it is to be driven on public roads. While an unlicensed motor vehicle may traverse "directly across" public roads (see section 32-2124.1), it cannot be seriously contended this includes driving along a highway for one mile.

The provisions governing issuance of the citation to the ranch employee for driving without a valid driver's license are contained in Title 31. Section 31-125 provides:

(a) No person, except those hereinafter expressly exempted, shall drive any motor vehicle upon a highway in this state unless such person has a valid Montana license as an operator or chauffeur under the provisions of this act. . . .

Section 31-126 further provides:

The following persons are exempt from license hereunder:

2. Any person while driving any road machine, farm tractor, or **implement of husbandry** temporarily operated or moved upon a highway; . . . (Emphasis added)

Given my earlier assumption that the irrigator pickup is an implement of husbandry, I conclude its driver was not required to have a valid driver's license.

THEREFORE, IT IS MY OPINION:

1. A pickup truck, even though specially modified so as to qualify as an "implement of husbandry", is a "motor vehicle" under Title 53 and is subject to registration and licensing before being operated on public roads.
2. The driver of a pickup truck need not have a valid driver's license if such vehicle is an "implement of husbandry".

Very truly yours,

ROBERT L. WOODAHL
Attorney General