

**Railroad Commissioners—Transportation Companies—  
Licenses—Wrecker Service—Tow Cars.**

Where a wrecker service is handled as a part of the business of repairing automobiles and for the purpose of bringing disabled automobiles to the repair shop for repairs, the person so engaged is not a transportation company within the meaning of Chapter 141, Laws of 1929. Where, however, a person holds himself out as engaged in the business of hauling or towing disabled automobiles for compensation over the highways as an independent business, and not in connection with services to be rendered by him upon the automobile hauled or towed, such person is a transportation company, within the meaning of the act.

Board of Railroad Commissioners,  
Helena, Montana.

March 10, 1930.

Gentlemen:

You have requested my opinion whether the term "transportation company" as defined in Chapter 141 of the Laws of 1929, embraces an operator of a so-called wrecker service, that is, a person, firm or corporation who by public profession and actual conduct is engaged in towing disabled automobiles from place to place over the public highways for compensation.

In my opinion, where the wrecker service is handled as a part of the business of repairing automobiles and for the purpose of bringing disabled automobiles to the repair shop for repairs, the person handling the same is not a transportation company within the meaning of the act. Where the towing of disabled automobiles is merely for the purpose of bringing the automobile to the garage or repair shop for services to be performed upon the automobile by the person doing the hauling or towing, the hauling or towing is a part of the private business of operating the repair shop, and is not the character of business done by a common carrier. The hauling and towing in such cases stands in the same relation to the business of the repairman that collecting and transporting by a laundryman of articles to be laundered at his laundry bears to the business of the laundry. In such cases the transportation is merely for the purpose of rendering some service upon the article transported, and is incident to the main business carried on by the person and is not conducted as a separate business.

Where, however, the person holds himself out as engaged in the business of hauling or towing disabled automobiles for compensation over the highways and not in connection with any services to be rendered by him upon the automobile hauled or towed, but as an independent business, then, in my opinion, such person is embraced within

the meaning of a transportation company as defined by the act, and is subject to it.

Very truly yours,  
L. A. FOOT,  
Attorney General.