

Opinion No. 103

**County Employees—Day's Work—
Working Time—Equipment,
Moving of**

**Held: Time spent by a county road
employee in moving road
equipment or in driving a**

truck or any other county owned motor vehicle, from a warehouse to and from the location where work is being done, is working time and comes within the meaning of a day's work" as that term is used in the statute.

February 9, 1948

Mr. Albert H. Kruse, Commissioner
Agriculture, Labor & Industry
Capitol Building
Helena, Montana

Dear Mr. Kruse:

You have requested my opinion on the following question:

"Is the time spent by a county road employee in moving road equipment or in driving a truck or any other county owned motor vehicle, from a warehouse to and from the location where work is being done, considered working time?"

Section 3079, Revised Codes of Montana, 1935, as amended by Chapter 135, Laws of 1943, provides, in part:

"A period of eight hours shall constitute a day's work in all works and undertakings carried on or aided by any municipal, county, or state government, . . ."

It would seem that the answer to your question depends upon the meaning of the term "working time." While we do not find any definition of such term, taking both together in their ordinary meaning, it would seem to mean time in which work is being performed.

I must assume that the workman is required by the employer as part of his duties, or work, to take charge of the motor vehicle where located at the beginning of the work day, start it in operation and move it to the location where the actual labor is being performed, and at the close of the day, to move it back to the warehouse where it is kept over night. I must also assume that the operation of the vehicle is the duty or work of the particular employee. It would seem logically to follow then that each and all of these steps come within the "day's work"

and hence must be performed within the statutory limitation of eight hours.

It is, therefore, my opinion that time spent by a county road employee in moving road equipment or in driving a truck or any other county owned motor vehicle, from a warehouse to and from the location where work is being done, is working time and comes within the meaning of a "day's work" as that term is used in the statute.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General