



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS

**PRICE DANIEL
ATTORNEY GENERAL**

May 3, 1949

Hon. J. E. McDonald
Commissioner of Agriculture
Austin, Texas

Opinion No. V-821.

Re: Availability of the appropriation contained in Item 76 for the current fiscal year to the State Department of Agriculture for the purchase of automobiles.

Dear Sir:

The question you have submitted for an opinion is, in substance, as follows:

May automobiles be purchased out of funds appropriated in Item 76 of the current appropriations made to the State Department of Agriculture by Senate Bill No. 391 Acts of the 50th Legislature?

The appropriations made to the State Department of Agriculture for the current biennium are found in Items 1 through 88, Acts of the 50th Legislature, pp. 811-816.

In order to ascertain whether the Legislature intended for you to purchase automobiles from the appropriation found in Item 76, it becomes necessary to examine similar items of appropriation made to the several divisions of the State Department of Agriculture, the pertinent parts of which are:

GENERAL OFFICE DIVISION

"Item 9. Equipment, cars, supplies, repairs to equipment and cars." (Emphasis added throughout)

MARKETS AND WAREHOUSE DIVISION

- "Item 18. Postage, printing, repairs, equipment, supplies, traveling expenses and contingent." (Payable out of Charter Filing Fees)

FIELD, SEED, CERTIFICATION DIVISION

- "Item 23. Postage, printing, repairs, equipment, supplies, traveling expense and contingent." (Payable out of Special Pure Seed Fund).

SEED LABORATORY DIVISION

- "Item 34. Postage, printing, repairs, equipment, supplies, traveling expense and contingent." (Payable out of Seed Laboratory Fees)

WEIGHTS AND MEASURES DIVISION

- "Item 43. Weights and Measures Equipment, cars, repairs, and supplies."
- "Item 44. Office Assistant, Inspectors and Seasonal help not to exceed \$190. per month each; postage, printing, repairs, equipment, supplies, traveling expenses, contingent and seasonal salaries, none to exceed \$2,200. per year each." (Payable out of Weights and Measures and Milk Testing Fees)

HORTICULTURAL INSPECTION AND QUARANTINE DIVISION

- "Item 76. Postage, printing, repairs, equipment, supplies, traveling expenses and contingent." (Payable out of Nursery Inspection Fees)
- "Item 82. Postage, printing, repairs, equipment, supplies, automobiles, traveling expense, bond premiums, and contingent." (Payable out of Citrus Maturity Inspection and Color Added Fund and Agricultural Protective Aid Fund)

"Item 88. Postage, printing, repairs, equipment, supplies, automobiles, traveling expense, and contingent."
(Payable out of Citrus Grading Fund)

The Legislature used the word "cars" in Items 9 and 43, and "automobiles" in Items 82 and 88. Neither of these words is found in Item 76, nor in any of the other Items of Appropriations heretofore quoted. Therefore, it appears that whenever the Legislature intended for cars or automobiles to be purchased out of a particular appropriation, it employed language to clearly express such intent. Since both the words "cars" and "automobiles" were omitted from Item 76, such omission leads us to the inevitable conclusion that the Legislature did not intend for the money appropriated in that item to be expended for the purchase of automobiles.


We do not mean the absence of the word "car" or "automobile", in and of itself, is conclusive in such cases. It is the specific language in other items of appropriation to the same Department from similar revenues which lends significance to the absence of direct language in this particular instance.

SUMMARY

Money appropriated in Item 76 of the appropriation to the State Department of Agriculture for the current fiscal year may not be expended for the purchase of automobiles. (S.B. No. 391, Acts 50th Leg., pp. 811-816).

Very truly yours,

APPROVED:



ATTORNEY GENERAL

BWB:wb

ATTORNEY GENERAL OF TEXAS



By

Bruce W. Bryant
Assistant