



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

May 25, 1953

Hon. Allan Shivers
Governor of Texas
Austin, Texas

Letter Opinion No. MS-41

Re: Constitutionality of
Senate Bill 29, Acts
53rd Legislature

Dear Governor Shivers:

In your letter of May 18, 1953, you requested our opinion on the validity of Senate Bill 29 as enacted by the Fifty-third Legislature. In general, this Bill provides for the regulation of motor vehicles which have television receivers installed therein within the view of the vehicle operator.

A motor vehicle is a lawful vehicle. 60 C.J.S. p. 119, Motor Vehicles, Sec. 10. The operation of a motor vehicle is not *malum in se*. Likewise, a television receiver is a lawful instrument although no authority is found for this self-evident statement. Under the Fourteenth Amendment of the United States Constitution and under Article I, Sec. 19, of the Constitution of Texas, no person may be deprived of his property without due process of law. Property includes the use thereof. 16 C.J.S. p. 607, Constitutional Law, § 209.

A State Legislature, acting under the police power, may regulate and control property but this regulation must be a reasonable means of protecting the public health and welfare. 16 C.J.S. p. 567, Constitutional Law, Sec. 198.

Senate Bill 29 attempts to regulate the use of automobiles with television sets visible to the operator, any and everywhere in the State where they might be used. Such a regulation clearly violates the Texas and Federal Constitutions in a situation where the operator of a television equipped vehicle is operating the vehicle upon his own property.

The wording of the Act should be such as to indicate a regulation which is reasonable for the protection of the public welfare, e.g., no one shall operate a motor vehicle upon a public street or highway in this State in which a television receiver is installed that is visible to the operator.

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It is our opinion that Senate Bill 29 is unconstitutional for the above mentioned reason but that it might be cured by the insertion of the phrase "upon a public street or highway" in Section 1 of this Bill, between the words "vehicle" and "in".

Yours very truly,

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By
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MR:hep:wb