



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

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October 26, 1953

Hon. H. D. Dodgen
Executive Secretary
Game and Fish Commission
Austin, Texas

Letter Opinion No. MS-104

Re: Legality of operation of
airplanes by the Game and
Fish Commission.

Dear Mr. Dodgen:

You have requested our opinion on the following question:

"Do airplanes operated by the Game and Fish Commission for the sole purpose of law enforcement and game management work constitute exempt vehicles under Sections 9a and 9b, Article VI of the general appropriation act?"

Among other things, the sections referred to provide as follows:

"Sec. 9. Passenger vehicles.

"a. ... none of the moneys appropriated in this Act may be expended for the maintenance or operation of any State-owned passenger car or airplane designed for passenger transportation unless the authority to do so, and the number of passenger cars or airplanes to be maintained and operated, are explicitly stated by the language of this Act.

". . .

"b. Only the following passenger-carrying vehicles are exempt from the restrictions on purchase, maintenance and operation specified in this section: panel, pick-up and delivery trucks and trucks required for the conveyance of special equipment; motorcycle delivery units; dual-control automobiles used exclusively for

driver training; passenger cars equipped with two-way radios, motorcycles, jeeps, and boats needed, and used for fire prevention, fire-fighting and other activities for safeguarding public safety, public property, or for criminal law enforcement; ambulances or other passenger vehicles specially equipped and regularly used for ambulance services, buses and station-wagons regularly used for the mass transportation of numbers of people and essential to the efficient management of the operating agency of the State." (Emphasis added.)

You will observe from the words emphasized above that Section 9b particularly names those passenger-carrying vehicles which are exempt from Section 9a restrictions on maintenance and operation. The vehicles named are trucks, motorcycles, automobiles, passenger cars, jeeps, boats, ambulances, buses and station-wagons when required, used, needed and essential for the specified functions. In view of the Legislature's particularity in specifically listing these several classes of exempt vehicles, in view of the fact that airplanes are nowhere mentioned and in view of the rule that exemptions must be strictly construed, we have concluded that the Legislature intended that no airplane could be an exempt "passenger-carrying vehicle" regardless of its use or function. Consequently, you are respectfully advised that airplanes designed for passenger transportation operated by the Game and Fish Commission are not exempt vehicles under Section 9.

This conclusion in no way conflicts with our holding in Opinion No. S-69 (1953). The summary in that opinion is inaccurate to the extent it implies that any airplanes purchased or operated by the Department of Public Safety may be exempt under Section 9b. Incidentally, your attention is called to the fact that Item 72 of the appropriations to the Department of Public Safety specifically includes maintenance and operation of "2 airplanes." Acts 53rd Leg., Ch. 81, p. 271.

Airplanes designed for passenger transportation operated by the Game and Fish Commission for law enforcement and game management work are not exempt vehicles under Section

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9 of Article VI of the general appropriation act (Ch. 81, Acts 53rd Leg.) because no such airplanes are exempt under that section.

Yours very truly,

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By
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Assistant

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