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Robert H. Corbin

September 11, 1981

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ARIZONA ATTORNEY GENERAL

INTERAGENCY
Philip Thorneycroft
Assistant Director
Arizona Department of Transportation
Motor Vehicle Division
1801 W. Jefferson Street
Phoenix, Arizona 85007

Re: I81- 701 (R81-097)

Dear Mr. Thorneycroft:

We are responding to your recent memorandum in which you asked whether a newly invented motorized vehicle known as a Jay-Lift Roadrunner, which is designed and used to load hay, may be subject to motor vehicle registration.¹ You inform us that such vehicles often travel on state highways and are capable of reaching speeds in excess of 55 miles per hour. After reviewing applicable law, we think the determination with respect to registering those vehicles must be made on a case-by-case basis.

Generally, all motor vehicles must be registered prior to operation on state highways. A.R.S. § 28-302.A. The Jay-Lift, being a "self-propelled vehicle," is a "motor vehicle" pursuant to A.R.S. § 28-101.24, and thus would be generally subject to registration.

There are, however, exceptions to the registration

1. The Jay-Lift resembles a forklift in function and appearance, but is also designed for highway use and at least one Jay-Lift logged 50,000 highway miles last year.

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requirement, one of which is for "any implement of husbandry designed primarily for or used in agricultural operations and only incidentally operated or moved upon the highway" A.R.S. § 28-302.B. "Implements of husbandry" are defined by A.R.S. § 28-101.19 as follows:

"Implements of husbandry" means vehicles designed primarily for agricultural purposes and used exclusively in the conduct of agricultural operation. Any implement or vehicle, whether self-propelled or otherwise, which is used exclusively for carrying products of farming from one part of a farm to another part of the same farm, or from one farm to another farm, and is used solely for agricultural purposes including the preparation or harvesting of cotton, alfalfa, grains and other farm crops, and which is only incidentally operated or moved on a highway whether as a trailer or self-propelled unit, is an implement of husbandry exempt from registration as a motor vehicle.

In order to qualify for an exemption as an "implement of husbandry", a vehicle must satisfy the statutory criteria set forth in the statute. Sullivan v. Green Manufacturing Company, 118 Ariz. 181, 575 P.2d 811 (Ct. pp. 1977); Ariz. Atty. Gen. Op. 167-27.

Although the Jay-Lift's design and use capabilities appear to come within the scope of A.R.S. § 28-101.19, the exemption from registration must be determined on a case by case basis. Sullivan v. Green Mfg. Co., supra. A particular vehicle may not satisfy all the criteria and thus must be registered before being operated on the highways of this State. For example, a Jay-Lift that logs more than 50,000 miles on state highways in one year is not "only incidentally operated or moved on a highway" and therefore is subject to registration.

You should bear in mind that a decision to exempt a vehicle as an "implement of husbandry" will exempt the vehicle from the requirements of Title 28 imposed for the protection of

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the public, such as the brake requirements of A.R.S. § 28-952. Accordingly, exemption from registration should be construed narrowly. Sullivan v. Green Mfg. Co., supra.

Sincerely,



BOB CORBIN
Attorney General

BC:LPS:lm