

FILE

Subject

*Grays-Carver Trucks
& Trucks May Weight and Width*

Copy to

*State Provision
Legislature 1974*

STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

May 29, 1974

Opinion No. 74- 170

Lt. Col. Allen Rush
Assistant Superintendent
Kansas Highway Patrol
State Office Building
Topeka, Kansas 66612

Dear Colonel Rush:

This will acknowledge receipt of your opinion request of May 17, 1974, relative to the weight and load of vehicles as contained in Senate Bill 587.

You first inquire whether the vehicles named in section 8-1901(b) of Senate Bill 587 are exempt from the size, weight, and load requirements as set out and other sections of Article 19. The statute clearly states that the provisions of Article 19 shall not apply to the vehicles named in 8-1901(b) "except as otherwise specifically provided in this act." We can find nothing which would limit or modify this clear provision.

You next ask whether the vehicles listed in section 8-1911 (a) are disallowed upon a highway without a permit between the time from a half hour after sunset to a half hour before sunrise, irrespective of the exemptions granted in section 1901(b). The state may, acting under its police power, restrict or exclude certain vehicles from particular highways when it deems such restriction or exclusion to be in the interest of safety or the preservation of highways. The restrictions imposed upon "farm tractors," "combines," "fertilizer dispensing equipment," "other farm machinery," and "other machinery" by section 8-1911(a) are imposed by the State Legislature in the interest of safety. You are correct, therefore, in determining that these vehicles set forth in 8-1911(a) are not to be permitted upon the highways from one half hour after sunset until one half hour before sunrise without a permit, notwithstanding the exemptions granted in section 8-1901(b).

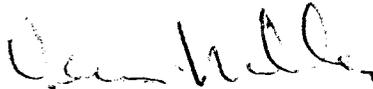
Lt. Col. Allen Rush
May 29, 1974
Page 2

Lastly, you inquire whether a vehicle named in 8-1911(a) would be exempt from the size, weight and load requirements of Article 19 if such vehicle is transported upon a truck or trailer at times other than "at any time from a half hour after sunset to a half hour before sunrise." You make reference to the terminology "moving or operating upon any highway" used in the initial proviso of section 8-1911(a). In a memorandum opinion dated May 14, 1971, from Mr. Joseph J. Poizner, chief attorney for the State Highway Commission, to Mr. R. L. Peyton, assistant state highway director, it is stated:

"Accordingly, we are of the opinion that combines and other farm machinery may lawfully be transported on Interstate highways if hauled upon motor vehicles such as trucks or truck tractors and trailers which are otherwise lawfully authorized to operate on Interstate highways and to haul such equipment, whether as common carriers, contract carriers or private carriers. We are of the further opinion that such transportation would be subject to statutory limitations on length, height, width and gross weight and axle weight, which would be exceeded only under authorization of special permits issued subject to applicable regulations of the State Highway Commission."

This opinion was concurred in by the Attorney General, and a copy of the opinion was forwarded to your office. Thus, although the vehicles listed in section 8-1911(a) are not required to obtain a permit to move or operate in the daytime, once they become the cargo of a truck or semi-trailer, that truck or semi-trailer is required to obtain a permit if it does not comply with the size, weight and load requirements of Article 19.

Very truly yours,



VERN MILLER
Attorney General

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