



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

September 21, 1976

ATTORNEY GENERAL OPINION NO. 76- 299

Mr. Richard N. Raleigh
Barber County Attorney
Post Office Box 248
Medicine Lodge, Kansas 67104

Re: Motor Vehicles--Loads--Highway Maintenance and
Construction

Synopsis: The requirements of K.S.A. 8-1906 apply to all vehicles used in highway construction and maintenance projects when engaged in hauling materials to or from the job site. When actually in use in a maintenance or construction operation for spreading material, such vehicles are exempt from the requirements of the section, but when used merely for transport, the requirements of K.S.A. 8-1906 must be met.

* * *

Dear Mr. Raleigh:

K.S.A. 8-1906 states thus:

"(a) No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, except that this section shall not prohibit the necessary spreading of any substance in highway maintenance or construction operations.

(b) No person shall operate on any highway any vehicle with any load unless said load and any covering thereon is

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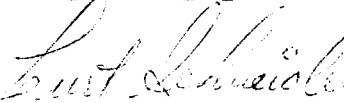
securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner a hazard to other users of the highway."

You advise that a resident in Barber County recently reported that the windshield of her automobile was broken while driving on a road which was being resurfaced by the county highway department. She alleges that the windshield was broken by a rock flying from one of the loaded county vehicles.

You suggest that questions may arise whether the truck was in violation of the requirements of K.S.A. 8-1906 that the load be secured, or whether it was exempt from those requirements because it was being employed in a repair project.

The statute imposes a twofold requirement. First, the vehicle must be constructed and loaded so as to prevent any portion of the load from escaping therefrom. Secondly, the load and any covering thereon must be "securely fastened" so that neither the covering nor the load may become detached, loose, or otherwise become a hazard to other users of the highway. The spreading of material on highways during maintenance and construction operations is excepted from the requirement of the statute. However, when a vehicle is used to haul materials to and from a highway construction or maintenance site, it is subject to the requirements of the statute, in my judgment. When used to spread material during a construction or maintenance operation, vehicles are excepted during such use. However, when not being used in a spreading operation, but rather, being employed in the transport of materials to and from the site, the vehicles are subject to the requirements of the statute, in my judgment. The exception applies only during actual spreading operations in maintenance and construction projects, and not to vehicles not engaged in a spreading operation, but used just as other vehicles to transport materials to or from the job site.

Very truly yours,



CURT T. SCHNEIDER
Attorney General

CTS/RRS/cgm