



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

November 15, 1977

ATTORNEY GENERAL OPINION NO. 77-358

Mr. Douglas S. Brunson
Kiowa County Attorney
Kiowa County Courthouse
Greensburg, Kansas 67054

Re: Motor Vehicles--Gross Weight--Exemptions

Synopsis: The gross weight exclusion provided by K.S.A. 8-1909 (b) (2) to truck tractor and dump semitrailer when such are used as a combination unit exclusively for the transportation of dirt or fill material and such vehicles are used for transportation to a construction site, highway maintenance or construction project or other storage facility, is not applicable to a truck tractor and dump semitrailer when such is used as a combination unit exclusively for the transportation of manure and top-soil scrapings from a feed yard to a local farmer for distribution over his land.

* * *

Dear Mr. Brunson:

K.S.A. 8-1909(b) (2) exempts truck tractors and dump semitrailers from certain weight limitations

"when such are used as a combination unit exclusively for the transportation of sand, salt for highway maintenance operations, gravel, slag stone, limestone, crushed stone, cinders, coal, blacktop, dirt or fill material, when such vehicles are used for transportation to a construction site, highway maintenance or construction project or other storage facility" [Emphasis supplied.]

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You question the applicability of this exemption to a dump-type semi-trailer which was being used to haul a combination of manure and top-soil scrapings from a livestock feed yard to a local farmer, for distribution over sandy soil. Thus, you raise the question what constitutes "dirt" or "fill material." On the basis of the information in your letter, as set out above, it appears that the material was not being used for fill material, and thus the question remains whether it is "dirt." As a purely factual matter, if the greater part of the load consisted of dirt, and manure was only incidentally included in the dirt load, the material might qualify as "dirt." However, in order to fall within the exemption, it is necessary that the truck be used "exclusively" for the kind of hauling described in the statute, and moreover, that the material be transported to a construction site, highway maintenance or construction project or other storage facility. From your letter, it does not appear that the material involved was being transported to any of the enumerated destinations, but rather, was being transported for distribution on sandy soil on agricultural property. Thus, the exemption does not, in my judgment, apply to this particular use.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:BEW:kj