



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- 359

The Honorable Joseph F. Norvell
State Senator
Box 991
Hays, Kansas 67601

Re: Legislation--Constitutionality--Ban of Demountable Truck
Rim Wheels

Synopsis: Whether a statutory prohibition against the sale and use of demountable truck rim wheels is within the constitutional power of the legislature depends upon whether there is "some basis" for concluding that the prohibition of the sale and use of such rims is necessary to protect the public safety and general welfare.

* * *

Dear Senator Norvell:

You advise that you are considering the introduction of legislation to prohibit the use and sale of demountable truck rim wheels in the State of Kansas. This concern is prompted, I understand, by correspondence which you have received describing two deaths which have occurred involving such tires. However, you indicate that some question has been raised whether such a law would be unconstitutional and you request my opinion in that regard.

Obviously, the legislature has authority to enact any and all legislation which may reasonably be deemed appropriate and desirable to protect the public health, safety and welfare. The legislature may prohibit the sale of any item if it has "some basis" for believing that the sale of the product poses a reasonable threat or hazard to the public health, safety and welfare, and for concluding that prohibition rather than mere regulation

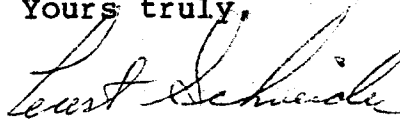
The Honorable Joseph F. Norvell
Page Two
November 15, 1977

is necessary in order to protect adequately the public health or general welfare. See *State ex rel. Mitchell v. Sage Stores Co.* 157 Kan. 404, 141 P.2d 655 (1943).

It is not possible for me to determine purely as a matter of law what factual basis the legislature might have for such findings. The legislative process is the appropriate forum for the marshalling of pertinent information regarding the hazards posed by such truck rim wheels, the means available to reduce or eliminate those hazards, the effect of a prohibition upon existing users of such products, and like pertinent information. The legislative hearing process will disclose whether there is indeed "some basis" for concluding that the prohibition of the sale and use of demountable truck tire rims is necessary or desirable to protect the public safety and general welfare.

If the legislature determines that there is indeed adequate basis to support such a prohibition, it remains impossible for me to anticipate any constitutional arguments against such legislation by those in the transportation industry and others who find that the prohibition poses a threat of adverse impact upon their business operations.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj