



STATE OF KANSAS

## Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

**Curt T. Schneider**  
Attorney General

December 2, 1977

ATTORNEY GENERAL OPINION NO. 77- 375

The Honorable Ardena Matlack  
State Representative, 93rd District  
614 Elaine Avenue  
Clearwater, Kansas 67026

Re: Motor Vehicles--Transporting In Combination--  
Constitutionality

Synopsis: K.S.A. 8-1907 (c) and (d) is general in nature, uniformly applicable, and bears a rational relation to the purpose of the legislature of regulating motor vehicles upon the highways. Thus, K.S.A. 8-1907 (c) and (d) is not discriminatory nor do the subsections violate any principles of equal protection of the law.

\* \* \*

Dear Representative Matlack:

As State Representative of the 93rd District, you request an opinion regarding the constitutionality of K.S.A. 8-1907 (c) and (d). Specifically you ask whether said statute is discriminatory and whether it denies those individuals affected by said statute their right to equal protection of the law.

K.S.A. 8-1907 (c) and (d) provides as follows:

"(c) Motor vehicles in transit may be transported in combination by means of towbar, saddlemount or fullmount mechanisms, utilizing the motive power of one (1) of the motor vehicles in such combination, except that not more than two (2) vehicles in any such combination of motor vehicles in transit may be connected by means of a towbar mechanism. Whenever

motor vehicles are transported as authorized in this subsection, such motor vehicles shall be connected securely in combination in accordance with rules and regulations adopted by the secretary of transportation and any combination of such motor vehicles shall comply with the limitations prescribed by K.S.A. 8-1904.

(d) Except as otherwise provided in subsection (c), not more than two (2) vehicles in any combination of vehicles may be connected by means of a towbar mechanism, and one of the vehicles so connected must be the towing vehicle."

Subsections (c) and (d) were interpreted by our office in a previous Attorney General opinion No. 75-352. In that opinion we said K.S.A. 8-1907 prohibits the towing of more than one vehicle by use of a towbar mechanism, whereas motor vehicles in transit may be transported in combination of two or more such vehicles when connected by a saddlemount or fullmount mechanism. That opinion, however, was not addressed to the constitutionality of the statute.

When addressing the issue of whether or not a statute is discriminatory in nature one should consider first to Art. 2, § 17 of the Kansas Constitution which states:

"All laws of a general nature shall have a uniform operation throughout the state: Provided, The legislature may designate areas in counties that have become urban in character as "urban areas" and enact special laws giving to any one or more of such counties or urban areas such powers of local government and consolidation of local government as the legislature may deem proper."

There are numerous Kansas Supreme Court decisions discussing the abovementioned constitutional provision. Some examples are *Barker v. K.C.*, 149 Kan. 696 (1939) where, *inter alia*, it was held:

"In determining whether a law enacted by the legislature contravenes the provisions of section 17 of article 2 of the

state constitution . . . , the following test is to be applied: (a) If a law of general form operates uniformly on all members of the class to which it applies, it is not open to the objection it is a special law if the classification is not an arbitrary and capricious one."

*Redevelopment Authority of the City of Kansas City v. State Corp. Comm.*, 171 Kan. 581 (1951) holds:

"For an act passed by the legislature to have uniform operation throughout the state as required by article 2, section 17, of the state constitution, it need not affect every individual, class or community, but it is competent for the legislature to classify and adopt a law general in its nature to the class created. The classification so made must be a natural and not an arbitrary, fictitious, or capricious one."

Lastly, in *State ex rel. v. Allen County Comm.*, 156 Kan. 248 (1942) the court said:

"It is true the legislature has the power to enact laws of a general nature which will be applicable only to a certain portion of the state, to a community or to a certain class of citizens. In other words, the legislature has power to pass laws which apply to and operate uniformly on all members of the class created, but the classification created must be a natural one and must rest upon a genuine and substantial basis. The classification cannot be an arbitrary or fictitious one but must be based upon real and substantial distinctions which have a reasonable and substantial relation to the subject matter involved."

It has been uniformly held that the right to operate a motor vehicle upon the public highways is a privilege, not a natural right and that privilege is subject to reasonable legislative regulation affecting the reciprocal rights and duties of all owners, operators or

The Honorable Ardena Matlack

Page Four

December 2, 1977

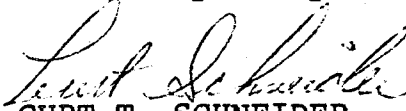
occupants when those rights and duties arise out of the operation of a motor vehicle. Thus applying the above rules to the provisions of K.S.A. 8-1907, it is evident that subsections (c) and (d) in regulating the types of towing mechanisms and various combinations of vehicles is general in nature and uniformly applicable to all motor vehicles in transit. The classification regarding the use of towbars in my opinion is not arbitrary, fictitious or capricious. Nor in my opinion are there any violations of equal protection principles.

Traditionally, the test utilized in determining if a legislative enactment violates equal protection principles is whether the classification bears a rational relation to the purpose of the legislation. [See *State v. Consumers Warehouse Market*, 183 Kan. 502 (1958).]

The purpose of K.S.A. 8-1907 is evidenced by the original statutory enactment which is founded at 1933 Laws of Kansas, Chapter 236, § 1. That act was identified as an act relating to the regulation of vehicles upon the highways. As mentioned earlier in this opinion the legislature may enact reasonable regulations affecting the reciprocal rights and duties of all owners, operators or occupants when those rights and duties arise out of the operation of a motor vehicle. The regulation of the use of towbars as devices being used in combining motor vehicles in transit, in my opinion bears a rational relation to the purpose of the state and therefore does not violate any equal protection principles.

In conclusion, it is my opinion that K.S.A. 8-1907 (c) and (d) is general in nature, uniformly applicable, and bears a rational relation to the purpose of the legislature of regulating motor vehicles upon the highways. As such, K.S.A. 8-1907 (c) and (d) is not in my opinion discriminatory nor do the subsections violate any principles of equal protection of the law.

Yours very truly,

  
CURT T. SCHNEIDER  
Attorney General

CTS:BEW:jj