



STATE OF KANSAS

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ATTORNEY GENERAL

December 4, 1978

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ATTORNEY GENERAL OPINION NO. 78- 378

Colonel Allen Rush  
Superintendent  
Kansas Highway Patrol  
Townsite Plaza Building #2  
Suite #130  
200 East Sixth Street  
Topeka, Kansas 66603

Re: Motor--Vehicle--Registration--Exemptions

Synopsis: Truck mounted concrete cement pump units are not cranes as defined by K.S.A. 1977 Supp. 8-128(b) and are not exempt from the Kansas truck registration and licensing requirements.

\* \* \*

Dear Colonel Rush:

You inquire whether a Thomsen truck-mounted concrete pump is exempt from registration under K.S.A. 1977 Supp. 8-128(b), which provides thus:

"Self-propelled cranes and earth moving equipment which are equipped with pneumatic tires may be moved on the highways of this state from one job location to another, or to or from places of storage delivery or repair, without complying with the provisions of the law relating to registration

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and display of license plates but shall comply with all the other requirements of the law relating to motor vehicles and shall not be operated on state maintained roads or highways on Sundays or any legal holidays except Lincoln's birthday, Washington's birthday or Columbus day."

You enclose a copy of a brochure prepared by Royal Industries, Thomsen Division, which includes pictures of the unit and technical descriptions thereof. The unit is designed to be mounted on a truck furnished by the manufacturer or one selected by the purchaser. The unit includes a hopper into which concrete is delivered at the site by a conventional truck-mounted concrete mixing and delivery unit. The unit includes a pump unit, which pumps the concrete through a jointed steel pipeline, which is affixed to an articulated steel form approximately eighty (80) feet long. The boom is capable of lifting the pipeline both horizontally and vertically, to deliver the concrete where needed.

In a letter dated March 19, 1975, an assistant attorney general in this office responded informally to an inquiry, from a business in Kansas City, Missouri, concerning the registrability of a Thomsen truck-mounted concrete pump. He concluded that it was exempt under K.S.A. 8-128(a) as "road machinery." That letter does not indicate whether the judgment was based upon photographs or brochures displaying the unit, or upon only a description of it. Clearly, in my opinion, this informal judgment was erroneous, for the unit is not specially designed for road and highway construction. It is designed for delivery of concrete in any construction project setting in which a pump and boom are required.

It may be argued that the unit constitutes a special purpose crane, i.e. that the boom constitutes a crane which is specially fitted to lift and move the attached pipeline in both vertical and lateral directions to deliver concrete as needed. On the other hand, counsel for the Division of Vehicles of the Department of Revenue, in a letter dated April 4, 1978, took the view that the unit is "simply a motor vehicle with special equipment mounted on it," and that it was not exempt from registration as a "self-propelled crane." Yet again, in a decision rendered July 18, 1978, by the Johnson County District Court, Judge Robert G. Jones concluded that "the vehicle referred to in this case [a concrete pump] . . . [is] clearly within the definition and is in fact a crane and therefore exempt from registration pursuant to K.S.A. 8-128."

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In the area of taxation, taxation is the rule, exemption is the exception, and exemptions are to be strictly construed. We find no case in which a similar maxim has been invoked in the matter of motor vehicle registration. However, it certainly is the rule that registration is required unless the legislature has specifically exempted particular vehicles therefrom. The exemption in K.S.A. 1977 Supp. 8-128(b) must be construed in accordance with the evident intention and purpose of the legislature. The exempted vehicles include "[s]elf-propelled cranes and earth moving equipment which are equipped with pneumatic tires," permitting them to be "moved on the highways of this state from one job location to another, and to or from places of storage, delivery or repair," without registration. The statute does not define the phrase "self-propelled crane." Likewise, it does not define the phrase "earth-moving equipment." Yet, surely an ordinary dump truck will not be held to be exempt from registration merely because it is used to haul dirt, even though it is literally a unit of "earth-moving equipment" which is equipped with pneumatic tires. The concrete pump unit in question here is likewise a conventional truck body which is specially equipped with, inter alia, a boom for lifting an attached steel pipe for delivery of concrete.

In my judgment, the exemption of "self-propelled cranes" was not designed to exempt from registration any motor vehicle which happens to be equipped with a device for lifting. In prescribing exemptions from motor vehicle registration requirements, the legislature commonly speaks with some generality, foregoing meticulous definition of terms. For example, "all self-propelled farm implements including fertilizers and spreaders designed and used exclusively for dispensing liquid and dust fertilizers" are exempt. In past years, this office has received numerous inquiries concerning various specialized kinds of vehicles which are claimed to be exempt under this section. In resolving this question, it is necessary to assume, in accordance with a common rule of statutory construction, that the legislature used these terms in accordance with their ordinary, popular and common acceptation, rather than in any technical and specialized sense. In construing subsection (b) of K.S.A. 1977 Supp. 8-128, it is fair to assume that the legislature intended thereby to exempt certain kinds of vehicles from registration because of their limited operation on the roads and highways of the state. Large earth moving equipment, for example, is rarely operated on the roads and highways. Likewise, in exempting self-propelled cranes equipped with pneumatic tires, it is my judgment that the legislature intended to exempt vehicles which are equipped and designed exclusively as cranes,

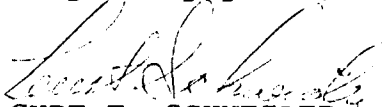
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for the lifting of heavy weights, and which, because of their extraordinary size and weight, are operated upon the roads and highways of the state only under reasonably limited circumstances. The vehicle in question here is a "crane" only by virtue of the steel boom, which is designed to lift nothing but the attached steel pipe through which concrete is pumped.

Clearly, for the reasons pointed out above, the exemption of "self-propelled cranes and earth moving equipment which are equipped with pneumatic tires" is subject to construction. The language is not a highly refined and elaborate definition of the kinds of vehicles intended to be exempt. The exempt classes of vehicles are described in a general way, in words having common and popularly recognized meanings. There are abundant rules of statutory construction which are designed to determine the precise reach of statutory language, which in itself is not sufficiently precise. None of those rules, in my judgment, requires that the language describing the exemptions here be construed with the literalness attributed to them by the district court in the referenced decision above. In my judgment, a specially equipped motor vehicle otherwise subject to registration is not a "self-propelled crane" merely because it includes some device for the lifting or raising of goods, materials, or equipment. Ascribing to the language the literal interpretation given by the district court, it may argue that any so-called "cherry picker," such as those used by utility companies, tree-trimming services or sign-board companies, and indeed any large tow truck or "wrecker" vehicle," constitutes a "self-propelled crane," which is equipped with pneumatic tires, and is therefore exempt from registration.

In my judgment, this literal interpretation broadens the exemption entirely without justification in either the specific language of the subparagraph, in applicable rules of statutory construction, or in the apparent legislative purpose in enacting this exemption. Accordingly, it is my opinion that the Thomsen concrete pump unit described above is not a "self-propelled crane" which is exempt from registration under K.S.A. 1977 Supp. 8-128(b). Obviously, the decision of the Johnson County District Court must govern enforcement of the statute in that jurisdiction. It is my opinion, however, that the statute should be enforced as construed above in other jurisdictions, unless the question is finally adjudicated by the Kansas Supreme Court, or until the legislature refines the language of the exemption to exempt such vehicles specifically.

Very truly yours,



CURT T. SCHNEIDER  
Attorney General

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