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ATTORNEY GENERAL OPINION NO. 82- 42

The Honorable Donald L. Montgomery  
State Senator, Twenty-First District  
Room 503-N  
Statehouse  
Topeka, Kansas 66612

Re: Size, Weight and Load of Vehicles -- Towing Vehicles;  
Connection and Safety Equipment -- Implements of Husbandry

Synopsis: Implements of husbandry that are moved temporarily on state highways are exempted from the provisions of K.S.A. 1981 Supp. 8-1907(d) which requires the installation of certain safety devices on towed vehicles. Cited herein: K.S.A. 1981 Supp. 8-1427, 8-1901, 8-1907.

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Dear Senator Montgomery:

You have requested our opinion as to whether the provisions of K.S.A. 1981 Supp. 8-1907(d), which requires the installation of certain safety equipment on towed vehicles, applies to "implements of husbandry." You state that questions have arisen concerning the situation when persons who are engaged in agricultural pursuits tow more than one farm implement behind a motor vehicle on a state highway.

Subsection (d) of K.S.A. 1981 Supp. 8-1907 provides:

"Except as otherwise provided in subsection (c), not more than three (3) vehicles, including the towing vehicle, in any combination of vehicles may be connected

by means of a towbar mechanism, and if the three (3) such vehicles are connected by towbar mechanisms, the towbar mechanism between the towing vehicle and the first towed vehicle shall be equipped with an anti-sway mechanism. In addition, the second towed vehicle of every combination of vehicles so connected shall be equipped with service brakes acting on the wheels of at least one (1) axle, and which are of a type approved by the safety department of the department of transportation and of such character as to be applied automatically and promptly."

This statutory provision clearly indicates that no more than two vehicles can be towed behind a motor vehicle simultaneously, and it further requires that certain safety devices be attached to the towed vehicles. These provisions are included in Article 19 of Chapter 8 of Kansas Statutes Annotated, and the scope of this article is prescribed by subsection (d) of K.S.A. 1981 Supp. 8-1901, which provides:

"Except as otherwise specifically provided in this act, the provisions of article 19 of chapter 8 of Kansas Statutes Annotated governing size, weight and load shall not apply to fire apparatus, road machinery, farm tractors or to implements of husbandry temporarily moved upon a highway, or to a vehicle operated under the terms of a currently valid special permit issued in accordance with K.S.A. 8-1911 and any amendments thereto." (Emphasis supplied.)

This section distinctly provides that several classes of vehicles are excluded from the requirements of K.S.A. 8-1901 et seq. It is abundantly clear that implements of husbandry constitute one of these statutory exclusions.

At this point it is appropriate to note that implements of husbandry are defined by K.S.A. 1981 Supp. 8-1427 to mean "every vehicle designed or adapted and used exclusively for agricultural operations and only incidentally moved or operated upon the highways." (Emphasis supplied.) This statute would seemingly include most farm implements.

An important phrase contained in both K.S.A. 1981 Supp. 8-1427 and 8-1901(d) states that a vehicle, in order to satisfy the statutory definition of an implement of husbandry and be eligible for the statutory exclusion, described above, must be towed or moved only temporarily or

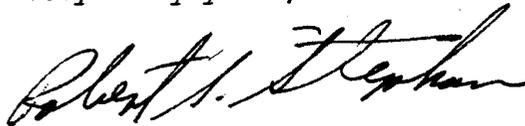
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incidentally upon a state highway. These statutes indicate a recognition by the legislature that owners and operators of implements of husbandry engaged in agricultural pursuits must convey these implements upon state highways for abbreviated periods of time to successfully complete their farming and ranching obligations.

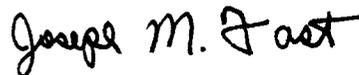
In our opinion, vehicles that satisfy the definition of implements of husbandry (K.S.A. 1981 Supp. 8-1427, *supra*) and are moved or towed upon the highways of this state only incidentally or temporarily are not subject to the restrictions imposed by K.S.A. 8-1907(d).

In light of our conclusion, advanced in the preceding paragraph, it appears unnecessary to address your second question as to whether farm implements such as plows, rakes, harrows, etc., are properly considered as vehicles under K.S.A. 8-1485.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General



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Assistant Attorney General

RTS:JEF:JMF:may