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March 8, 1985

ATTORNEY GENERAL OPINION NO. 85- 27

William L. Edds  
General Counsel  
Department of Revenue  
Second Floor  
State Office Building  
Topeka, Kansas 66612

Re:           Automobiles and Other Vehicles -- Act Regulating Traffic;  
              Sizes, Weights and Loads -- Enforcement of Vehicle Weight Laws

Public Utilities -- Motor Carriers -- Motor Carrier Inspection  
Stations -- Designation of Employees With Law Enforcement  
Powers

State Board, Commissions and Authorities -- Law Enforcement  
Training Center -- Persons Subject to Training Requirements

Synopsis: Motor carrier inspectors are police officers or law enforcement  
officers within the meaning of K.S.A. 1984 Supp. 74-5602(e)  
if their duties include prevention or detection of crime  
and the enforcement of criminal or traffic laws. As law  
enforcement officers, motor carrier inspectors are subject  
to the training requirements of K.S.A. 1984 Supp. 74-5607a.

Motor carrier inspectors whose duties do not include prevention  
or detection of crime and enforcement of criminal or traffic  
laws are not subject to the training requirements of K.S.A.  
1984 Supp. 74-5607(a). Cited herein: K.S.A. 1984 Supp.  
8-1910, K.S.A. 66-1318, K.S.A. 66-1319, K.S.A. 1984 Supp.  
74-5602, 74-5607a.

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Dear Mr. Edds:

As general counsel for the Kansas Department of Revenue, you request our opinion on whether motor carrier inspectors should be classified as law enforcement officers for purposes of the Law Enforcement Training Center Act, K.S.A. 1984 Supp. 74-5601 et seq.

Specifically, you inquire whether each of the following groups of inspectors are subject to the training requirements.

"Group I consists of Field Supervisors and inspectors in pursuit cars. These personnel stop commercial vehicles at random on the highways.

"Group II consists of inspectors operating from vans located upstream or downstream from "Truck Check" signs. These inspectors are quite often avoided by more serious violators.

"Group III consists of inspectors operating at permanent scale facilities, commonly referred to as "Weigh Stations". This group of employees do not pursue vehicles or stop traffic, but they do issue citations, collect bonds and take violators to county jails.

"Group IV works only as permit sellers at permanent facilities, no enforcement responsibility is given to this group."

K.S.A. 1984 Supp. 74-5607a prohibits the permanent appointment of police officers or law enforcement officers who have not received the training specified therein.

K.S.A. 1984 Supp. 74-5602(e) states, in part:

"'Police officer' or 'law enforcement officer' means a full-time or part-time salaried officer or employee of the state, a county or a city, whose duties include the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof."

K.S.A. 8-1910(d) states:

"The secretary of revenue is hereby authorized to designate certain department of revenue employees upon each of whom there is hereby conferred the authority of a police officer to control, direct and to weigh traffic on

the highways, and to make arrests for violations of the vehicle laws relating to the size, weight and load of vehicles and combinations of vehicles. The authority of such employees shall be limited to the enforcement of article 19 of chapter 8 of Kansas Statutes Annotated, provisions of the motor carrier act and such provisions of other vehicle laws as shall be designated by the secretary of revenue. The authority conferred by this section shall not be construed to limit or impair in any way the existing authority or duties of any police officer."

K.S.A. 66-1319(a) states in part:

"Such agents or employees of the department of revenue as shall be designated by the secretary of revenue are hereby vested with the power and authority of law enforcement officers in the execution of the duties imposed upon the secretary of revenue by this act and in enforcing the laws referred to in K.S.A. 66-1318. Any such agent or employee of the department of revenue and any officer of the state highway patrol are authorized and empowered to inspect any motor vehicle required by law to comply with any of the laws referred to in K.S.A. 66-1318, and rules and regulations relating thereto. . . ."

K.S.A. 66-1318 authorizes these department of revenue agents to:


"enforce the laws of this state relating to: The size, weight and load of motor vehicles and trailers; registration and insurance laws and requirements of the Kansas corporation commission; motor fuel use tax laws, liquid fuel carriers tax laws and motor vehicle registration laws applicable to vehicles; and livestock inspection laws."

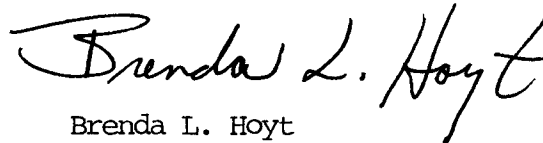
Clearly, these statutes allow the secretary of revenue to appoint motor carrier inspectors with law enforcement duties and authority. The definition of law enforcement officer in K.S.A. 1984 Supp. 74-5602(e) includes "full-time or part-time salaried officers or employees of the state . . . whose duties include prevention or detection of crime and the enforcement of the criminal or traffic laws of the state . . . ." The description of duties you have provided for motor carrier inspectors in Groups I, II and III includes law enforcement responsibilities. Therefore, it is our opinion that these individuals must be trained in accordance with

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the Law Enforcement Training Center Act. However, as you indicate that group IV inspectors do not have any law enforcement responsibilities, these individuals are not law enforcement officers for the purpose of the act.

Very truly yours,

  
ROBERT T. STEPHAN  
Attorney General

  
Brenda L. Hoyt  
Deputy Attorney General

RTS:BLH:may