

MOTOR VEHICLES: Trucks bearing advertising signs without the written permission of the State Highway Commission, and parked on the shoulder of a highway, do not violate Section 227.220, RSMo 1949.

October 11, 1951

10-15-51

Col. David E. Harrison  
Superintendent, Missouri  
State Highway Patrol  
Jefferson City, Missouri



Dear Sir:

Your letter at hand requesting an opinion of this department, which, in part, reads:

"Quite recently, business firms have begun advertising campaigns on State highways in Saint Louis County by placing advertising signs on trucks of various sizes which are parked, during daylight hours, on the shoulder of the highway or on State-owned highway right-of-way. The trucks are legally parked insofar as they are clear of the travelled portion of the roadway, or parked as near the right hand side of the highway as practicable, and do not obstruct vision of intersections, direction signs, or warning signs. The Maintenance Engineer of Division 6 is of the opinion that the operators of these trucks violate Section 227.220 R.S. Mo. 1949, subparagraph 2, which prohibits the erection or maintenance of advertising signs on any State highway."

Section 227.220, RSMo 1949, which pertains to the question which you have submitted, provides, in part:

"The commission is authorized to prescribe uniform marking and guide boards on the state highways, and to cause to

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be removed all other markings and guide boards and advertising signs, and to remove any other obstruction to the lawful use of a state highway, including the right to remove or trim trees located within or overhanging the right of way of a state highway, and to prohibit and regulate the erection of advertising or other signs on the right of way of the state highways. The commission is authorized to erect, or cause to be erected danger signals or warning signs at railroad crossings, highway intersections or other places along the state highways which the commission deem to be dangerous. After plans and specifications and estimates have been made and filed by the engineer and approved by the commission it shall be the duty of the commission to advertise for bids, as is now provided for letting of contracts for constructing the state highway system as provided in section 227.100, for the erection and maintenance of marking signs, guide boards, danger signals or warning signs, and to authorize the display of such signals, signs or guide boards advertising, which, in the opinion of the commission, is not unsightly or does not obstruct the view of such signals, signs or boards, in consideration of such signals, signs or boards being erected and maintained without cost of the state, and the commission is authorized to prohibit the display of any other advertising matter within a distance of three hundred feet of such signals, signs or boards so as not to obstruct the view or impair the purpose of the same.

"2. Any person who erects or maintains advertising signs, marking or guide boards or signals on the right of way of any state highway without the written permission of the commission, or any person who willfully damages, removes or obstructs the view of sign boards or signals, erected or maintained on the highways without the written permission of the commission, shall be deemed guilty of a misdemeanor; \* \* \*"

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It therefore becomes necessary to construe the above section, and in doing so we must apply certain appropriate rules of statutory construction which have long been recognized and followed by the courts.

The Supreme Court of Missouri has many times held that the primary rule of construction is to ascertain the law-makers intent from the words used in the statute and give to said language its plain and rational meaning to promote the object and manifest purpose of the statute. *Union Electric Co. v. Morris*, 222 S.W. (2d) 767, 359 Mo. 564.

In the case of *Haynes v. Unemployment Compensation Comm.*, 183 S.W. (2d) 77, 353 Mo. 540, the Supreme Court, in construing the Workmen's Compensation law, also said the following at S.W. l.c. 82:

" \* \* \* This view is further supported by the well recognized rule of statutory construction that a statute must be constructed in the light of the evil which it seeks to remedy and in the light of conditions obtaining at the time of its enactment. \* \* \*"

Again, in *State ex rel. Webster Groves Sanitary Sewer Dist. v. Smith*, 115 S.W. (2d) 816, 342 Mo. 365, it was stated at S.W. l.c. 823:

" \* \* \* In construing an act, the true intention of the framers must be followed, and where necessary the strict letter of the act must yield to the manifest intent of the Legislature. \* \* \*"

Further in connection with the construction of statutes, the Supreme Court of Missouri, in *State v. Irvine*, 72 S.W. (2d) 96, 335 Mo. 261, said the following at S.W. l.c. 100:

" \* \* \* The courts will not so construe a statute as to make it require an impossibility or to lead to absurd results if it is susceptible of a reasonable interpretation. \* \* \*"

Therefore, having in mind the above rules of statutory construction, we look to Section 227.220, supra, to ascertain its application to the question which you have propounded.

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As we read the statute, the manifest purpose of the Legislature in enacting it was to provide for safe driving conditions on the highways of the state rather than to regulate or control the type of advertising which could be maintained on the highway right of way.

Insofar as advertising signs are concerned, we believe that the prohibition contained in the statute is directed to the actual erection of advertising signs of a more permanent type which might, under certain circumstances, obstruct the view of persons using the highways, and that such was the principal evil which the Legislature sought to remedy by enacting the statute rather than to control or regulate advertising or the operation of motor vehicles using the highways.

Applying the strict wording of the statute which prohibits the maintaining of advertising signs without the written permission of the Commission, it might be said that a truck or some other type of motor vehicle having advertising placed thereon in some form would constitute the maintaining of advertising signs, but we do not believe that it was the purpose of the Legislature in enacting the statute in question to include such vehicles with advertising thereon within the prohibition of the statute. Therefore, the strict letter of the act must yield to the manifest intent of the Legislature.

It is common knowledge that most of the trucks using the public highways of this state today have some sort of advertising placed on them. This is usually in the form of words and names painted on said trucks which apprise the public of the owners thereof and the nature of their business. Unquestionably the vast majority of trucks of all sizes which operate upon the state highways today bear some sort of advertising as herein described to a small or large degree.

If we are to apply the strict wording of the statute, it would mean that any person operating any truck or motor vehicle on the state highways and bearing advertising such as we have described would be violating the statute if permission of the Commission to maintain said advertising was not obtained. To give this construction to the statute would lead to an absurd or unreasonable result, and contrary to what was contemplated by the Legislature.

As we understand the facts which you have presented, that which is involved is a truck or motor vehicle which has

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not lost its identity as such upon which advertising is maintained, and we are not considering a structure in the nature of an advertising sign which has been erected along the highway.

CONCLUSION

In the premises, it is the opinion of this department that trucks bearing advertising signs without the written permission of the State Highway Commission, and parked on the shoulder of a state highway, clear of the traveled portion of the roadway, and which do not obstruct the vision of motorists using the highway, do not constitute a violation of Section 227.220, RSMo 1949.

Respectfully submitted,

RICHARD F. THOMPSON  
Assistant Attorney General

APPROVED:

  
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J. E. TAYLOR  
Attorney General

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