

STATE HIGHWAY COMMISSION: The word "axle" as used in Section 7788 R. S. Missouri, 1929, does not mean "rocker arm" which makes several axles.

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December 20, 1939



Mr. Louis V. Stigall  
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State Highway Department  
Jefferson City, Missouri

Dear Sir:

We are in receipt of your request dated December 8th, 1939, for an opinion, which request reads as follows:

"There is considerable question among manufacturers of trucks as to the interpretation of Section 7788, R. S. Mo., 1929, so far as it affects the distribution of the total gross weight of the vehicle where two wheels contacting the pavement some two or three feet apart are attached to the frame of the truck by a common rocker midway between the wheels. The destructiveness to the highway is no greater, of course, than if these two wheels on a side were attached to the frame of the truck by a separate or individual axle. The statute provides that:

'\* \* \* \* and no motor vehicle having a greater weight than 16,000 lbs. on one axle \* \* \* shall be operated on the highways of this state \* \* \*.'

"Does this prohibit the distribution of more than 8,000 lbs. to the two wheels on one side of the truck which are attached

to the frame work by a common rocker, or may each wheel on each side of the truck be considered as carried on a separate axle?

"It is somewhat difficult to describe the various methods of attaching wheels, axles and rocker arms in common use by truck manufacturers today. Mr. Homer Dennis of our maintenance department has a considerable quantity of manufacturers' descriptive literature, pictures and diagrams which he would be glad to show you in order to give a better understanding of what the question is."

Section 7788 R. S. Missouri, 1929, reads as follows:

"No motor vehicle, except a combination of tractor and semi-trailer, the gross weight of which, including load, is more than 24,000 pounds, and no combination of tractor and semi-trailer, the gross weight of which, including load, is more than 38,000 pounds, and no motor vehicle having a greater weight than 16,000 pounds on one axle, and no motor vehicle having a load of over 600 pounds per inch width of tire upon any wheel concentrated upon the surface of the highway (said width in the case of rubber tires, both solid and pneumatic, to be measured between the flanges of the rim), shall be operated on the highways of this state: Provided, a combination of tractor and semi-trailer shall be considered a vehicle of six (6) wheels for the purpose of computing the distribution of the load."

It will be noticed under this section that no motor vehicle, except a combination of tractor and semi-trailer should weigh more than 24,000 pounds, including load, and a combination of tractor and semi-trailer should not weigh more than 38,000 pounds including the load.

It will also be noticed that under this section no motor vehicle should have a greater weight than 16,000 pounds on one axle. According to Webster's New International Dictionary, the definition of axle is as follows:

"The pin or spindle on which a wheel revolves, or which revolves with a wheel."

Section 7788, supra, does not say or describe the part that is attached to the chassis, but specifically says "axle".

It will also be noticed under section 7788, supra, that no motor vehicle should have a load of over 600 pounds per inch width of the tire upon any wheel concentrated upon the surface of the highway. As to the intention of the legislature, whether or not the term, "16,000 pounds on one axle" should apply to two wheels on two separate axles which are attached to a rocker and then attached to the chassis of the motor vehicle, one should take into consideration that part of section 7788, supra, pertaining to the pounds per inch upon the pavement. In your request you state the "destructiveness to the highway is no greater of course, than if these two wheels on a side were attached to the frame of the truck by a separate or individual axle." It is common knowledge that when a platform scale is used to ascertain the weight placed upon the highway on one wheel only it will usually show a greater weight than if separate platform scales are placed under each of the wheels of the motor vehicle. Although the total weight of a motor vehicle might show 20,000 pounds

if separate platform scales are placed under each wheel, yet, if only one platform scale is placed on one of the four wheels of the motor vehicle, it will show a greater weight in comparison to the total weight of platform scales placed under each of the four wheels.

The purpose of 7788, supra, was for the protection of the highways, and it was the intention and purpose of the legislature in enacting section 7788 to prevent unnecessary injury to the roadway.

In construing a statute it is necessary that one look at the purpose of the act, and in construing the intention of the legislature in the above section 59 C. J. page 952 states as follows:

"The intention of the legislature is to be obtained primarily from the language used in the statute. The court must impartially and without bias review the written words of the act, being aided in their interpretation by the canons of construction. Where the language of a statute is plain and unambiguous, there is no occasion for construction, even though other meanings could be found; and the court cannot indulge in speculation as to the probable or possible qualifications which might have been in the mind of the legislature, but the statute must be given effect according to its plain and obvious meaning," citing *Gendron v. Dwight Chapin & Co.*, (App.) 37 S. W. (2d) 486; *Betz v. Kansas City So. R. Co.*, 284 S. W. 455, 314 Mo. 390; *Grier v. Kansas City, C. C. & St. J. Ry. Co.*, 228 S. W. 454, 286 Mo. 523.

Also, in the case of *Betz v. Columbia Telephone Co.*, 24 S. W. (2d) 224, l.c. 228, the court said:

" \* \* \* Courts can not interpolate in a statute where omission is not plainly indicated. State ex rel. Cobb v. Thompson (Mo. Sup.) 5 S. W. (2d) 57. To get at the true meaning of the language in a statute the court must look at the whole purpose of the act, the law as it was before the enactment, and the change in the law intended to be made. Pembroke v. Huston, 180 Mo. 627, 636, 79 S.W. 470. It is a useful and safe rule of construction to resolve any ambiguity or obscurity in a statute in favor of such reading as will best meet the demands of natural justice, so far as that can be done without violence to settled legal principles. Plum v. Kansas City, 101 Mo. 525, 533, 14 S. W. 657, 10 L. R. A. 371; 25 R. C. L. sec. 258."

Under the above holding it cannot be said that one can construe section 7788, supra, to mean that the legislature meant that in considering the weight upon the "axle" that it should be construed the total weight upon a rocker arm to which is attached two separate axles. The statute is unambiguous and specifically states "axle" and not to be construed against having more than one wheel upon a common rocker.

#### CONCLUSION

In view of the above authorities, it is the opinion of this department that Section 7788, supra, limits the total weight upon any one axle to 16,000 pounds and should not be construed to mean 16,000 pounds upon any common rocker and each wheel on each side of the truck should be considered as carried on a separate axle and be allowed

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to carry a weight not exceeding 16,000 pounds.

Respectfully submitted,

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APPROVED:

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