

MOTOR VEHICLES: The Motor Vehicle Commissioner and the State Highway Commission have authority to issue oversize and overweight permits, but said permits are special and may only be issued to each vehicle.

May 29, 1942



Honorable Forrest C. Donnell  
Governor of the State of Missouri  
Capitol Building  
Jefferson City, Missouri

Dear Governor:

This will acknowledge receipt of your opinion request of May 28, 1942, which is as follows:

"Your opinion is respectfully requested upon the three questions hereinbelow set forth:

"Question 1. Does the law of Missouri authorize the issuance of a permit by which may be exceeded either (a) those certain weights or (b) that certain load per inch width of tire which are mentioned in Section 8406 of the Revised Statutes of Missouri of 1939?

"Question 2. If the law of Missouri authorizes the issuance of the permit mentioned in Question 1, can such a permit be legally issued for the operation of all such vehicles and combinations the operation of which on the highways of this state is prohibited by said Section 8406, or can such a permit be legally issued only with respect to specific vehicles, or specific combinations, the operation of which on the highways of this state is prohibited by said Section 8406?

"Question 3. Can a special permit the issuance of which is authorized by Section 8405 of the Revised Statutes of Missouri of 1939 be legally issued for the temporary operation of all such vehicles and combinations the operation of which on the highways of this state is prohibited by said Section 8405, or can a special permit be legally issued only with respect to specific vehicles, or specific combinations, the operation of which on the highways of this state is prohibited by said Section 8405?"

On May 20, 1942, we rendered an opinion to you that pertained to the first question you ask and in which we held that sub-section (e) of Section 8384, R. S. Mo. 1939, was not repealed by implication in the enactment of what now appears as Section 8406, R. S. Mo. 1939. Your present opinion request, we think, necessitates something in addition to what we said in that opinion because, since the preparation of that opinion, our attention has been directed to the fact sub-section (e) of Section 8384, seems to restrict the issuance of the special overweight permits, therein authorized, to the operation of vehicles whose weights exceed the limits prescribed under this section. The suggestion has been that that language precludes resort to said sub-section (e) for authority in granting overweight permits in excess of those limits prescribed in Section 8406, R. S. Mo. 1939. Of course, all these acts are in pari materia and, while not enacted at the same time, must, nevertheless, be construed altogether. It is also important to note now that the Legislature, at the same time it enacted Section 8406, enacted what now appears in the statute Section 8405, prescribing new size limits.

In the case of *State ex rel. Dean v. Daues*, 14 S. W. (2d) 990 (Mo. Sup.), a large number of pertinent rules of statutory construction are set forth. We think that they are particu-

larly applicable to this situation. There the court said, l. c. 1001, as follows:

"\* \* \* Such a statute should be so construed as to render it a consistent and harmonious whole, and as will make its several integral sections, or parts, harmonize with each other; and hence the several and various sections, or parts, of the statute should be read and construed so that, if possible, all may have their due and conjoint effect, without repugnancy or inconsistency. Otherwise expressed, the several parts, or sections, of such a statute are to be construed in connection with every other part, or section, and all are to be considered as parts of a connected whole, and harmonized, if possible, so as to aid in giving effect to the intention of the law-makers. 25 R. C. L. 1008, 1009; 36 Cyc. 1128, 1129; Sutherland on Statutory Construction (2d Ed.) p. 706, Sec. 368. Furthermore, it is an elementary and cardinal rule of construction that effect must be given, if possible, to every word, clause, sentence, paragraph, and section of a statute, and a statute should be so construed that effect may be given to all of its provisions, so that no part, or section, will be inoperative, superfluous, contradictory, or conflicting, and so that one section, or part, will not destroy another. Sutherland on Statutory Construction (2d Ed.) pp. 731, 732, Sec. 380. Moreover, it is presumed that the Legislature intended every part and section of such a statute, or law, to have effect and to be

operative, and did not intend any part or section of such statute to be without meaning or effect. Id., p. 919, Sec. 491.

"\* \* \* \* \* Amendments to a statute are to be construed together with the original statute to which they relate as constituting one law, and as part of a coherent and cohesive system of legislation. 36 Cyc. 1164. And where a statute is amended only in part, or as respects only certain isolated and integral sections thereof, and the remaining sections or parts of the statute are allowed and left to stand unamended, unchanged, and apparently unaffected, by the amendatory act or acts, it is presumed that the Legislature intended the unamended and unchanged sections or parts of the original statute to remain operative and effective, as before the enactment of the amendatory act; and where the unamended and unchanged sections or parts of the original statute have been construed by the highest court of the state, the Legislature is presumed to have been familiar with their judicial construction, and to have adopted, recognized, and continued such judicial construction as a part of the unamended and unchanged sections, or parts, of the statute. 36 Cyc. 1153. Moreover, in the construction of amendments to a statute, the legislative body, in enacting the amendment, will be presumed to have had in mind all existing, unamended and unchanged provisions and sections of the statute, and to have had in mind, also, the judicial construction given to such existing, unamended and unchanged provisions and sections of the statute by the highest court of the State. 25 R. C. L. 1067."

Applying the rules laid down in this case we do not think it can be said that the language in sub-section (e) supra, to the effect that the permits may be issued only for weights in excess of the limits prescribed under that section, in any way prevents said sub-section (e) from now being effective to authorize the granting of those permits. Construing this whole law in order to give effect to every part thereof and treating it as a part of a coherent and cohesive system of legislation, and keeping in mind the rule that the Legislature is presumed to have considered and known of all existing provisions of the law at the time they enacted Section 8406, we think it is reasonable to say that the special permit authorized under sub-section (e) of Section 8384 can be issued on those vehicles whose weight limits exceed the limits now prescribed in Section 8406.

On the question of legislative intent, which, of course, is controlling in the construction of statutes, we direct your attention to the provisions of Section 8405, which prescribe the size limits. It will be noted that that section in itself provides for the issuance of special permits for vehicles in excess of the size there prescribed. We think it will be conceded that it is a physical fact that in most instances where the length of vehicles increases its weight carrying capacity also increases. Taking that fact in connection with the further fact that Section 8406 was enacted at the same time as the predecessor of Section 8405, it can hardly be said that the Legislature, while intending to authorize the issuance of oversize permits, did not intend that overweight permits be authorized. Therefore, on this point we are still of the view that the Motor Vehicle Commissioner with the consent of the State Highway Engineer may issue special permits for vehicles whose weight limits exceed those prescribed in Section 8406, R. S. Mo. 1939. Concerning the authority to issue oversize permits, we think it only necessary to direct your attention to the provisions of Section 8405, providing in part "that the state highway commission may, when in its opinion the public safety so justifies, issue special permits for the temporary operation of a vehicle or combination of vehicles which, including load, shall be greater than the lengths herein specified." In connection with this we desire to say that it should be kept in mind that the special permit on size can only be issued authorizing vehicles having greater lengths than prescribed in that section. There is no authority for issuing special permits auth-

orizing the operation of vehicles in excess of the height and width prescribed by Section 8405. This section was enacted at a later date than sub-section (e) of Section 8384 and clearly has repealed by implication that portion of said section authorizing the issuance of special permits with respect to all size limitations.

Your second and third questions deal with the nature of the oversize and overweight permits to be issued. That is to say, must the permits be issued for each vehicle or may there be issued a blanket permit for all vehicles? We think the provisions of the applicable statutes are clear on this point and set them out as follows.

Section 8384 (e), R. S. Mo. 1939, provides:

"The commissioner may, with the written approval of the state highway engineer, in his discretion issue special permits for the operation of vehicles whose sizes and weights exceed the limits prescribed under this section, but such permits shall be issued only for a single trip or for a definite period, not beyond the date of expiration of the vehicle registration, and shall designate the highways and bridges which may be used under the authority of such permit: Provided, however, such permits may be issued by the officer in charge of maintenance of streets of any municipality for the use of the streets by such vehicles within the limits of such municipalities."

Section 8405, R. S. Mo. 1939, is as follows:

"No motor drawn or propelled vehicle shall be operated on the highways of this state the width of which, includ-

ing load, is greater than 96 inches, or the height of which, including load, is greater than  $12\frac{1}{2}$  feet, or the length of which, including load, is greater than 33 feet; and no combination of such vehicles coupled together of a total or combined length, including coupling, in excess of 40 feet shall be operated on said highways, and not to exceed two vehicles shall be operated in combination. These restrictions as to length shall not apply to vehicles temporarily transporting agricultural implements or road making machinery, or road materials or towing for repair purposes cars that have become disabled upon the highway: Provided, however, that the state highway commission may, when in its opinion the public safety so justifies, issue special permits for the temporary operation of a vehicle or combination of vehicles which, including load, shall be greater than the lengths herein specified for transporting property the nature of which will not permit of such limitation of length, but such permit shall be issued only for a single trip or for a definite period of not to exceed 60 days, and shall designate the highways and bridges which may be used under the authority of such permit: Provided, however, the provisions of this act shall not affect the dimensions of combinations of motor vehicles now in use for a period of twelve (12) months from the effective date of this act."

In *St. Louis Amusement Company v. St. Louis County*, 147 S. W. (2d) 667 (Mo. Sup.), at l. c. 669, there appears this statement:

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"Where the language of a statute is plain and unambiguous it may not be construed. It must be given effect as written."

We think the language of the two sections last set forth are plain and unambiguous in that they require "special" permits for the operation of those vehicles exceeding the weight and size prescribed by law. It will be further noted that in Section 8384, sub-section (e), it is also provided that the permit is to be for a single trip or definite period and shall designate the highways and bridges which may be used. It is also to be noted that Section 8405 respecting oversize permits again uses the word "special" and limits the issuance of the permit for a single trip or for a definite period of not to exceed sixty days and requires that the permit designate the highways and bridges to be used. In our opinion there can be no question but that these two sections contemplate the issuance of permits to each vehicle and do not contemplate the issuance of any blanket permit authorizing all vehicles to exceed the limits required under the law.

Respectfully submitted,

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APPROVED:

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