

OPINION 46

OFFICIAL OPINION NO. 46

August 28, 1958

Mr. Harold S. Zeis, Superintendent  
Indiana State Police  
Stout Field  
Indianapolis 21, Indiana

Dear Superintendent Zeis:

By a letter dated August 14, 1958, you have asked my Opinion concerning the meaning of an act regulating the speed of certain types of motor vehicles. Your letter is as follows:

“I have received a request from First Sergeant Robert Adams, Commanding Officer of our Redkey Post, for the correct interpretation of the Acts 1939, ch. 48, § 55, p. 289; 1953, ch. 163, § 1, p. 576; 1957, ch. 225, § 1, p. 495, the same being Burns' Indiana Statutes, § 47-2004 (b) (2).

“The statute cited above—‘No person shall drive a freight-carrying pneumatic-tired vehicle with a gross weight of over five thousand (5,000) pounds at a speed greater than forty-five (45) miles per hour, other than on the Indiana toll road on which the speed shall be no greater than fifty-five (55) miles per hour.’—has been interpreted by the personnel of this Department, for purposes of enforcement, as meaning that the stated limits would not be exceeded by the drivers of pneumatic-tired vehicles designed or used for carrying freight when their gross weight, empty or loaded, exceeded five thousand pounds.

“In a recent case, a City Court acquitted an accused violator of the statute quoted above because his vehicle, a truck, was not carrying freight at the time of the alleged violation, although the truck, when empty, weighed approximately twelve thousand pounds.

“This case created much local interest and was reported and commented on at length in a newspaper of the community.

“In order that the officers of this Department may enforce this law according to the legislative intent, the following question is respectfully submitted for your consideration and opinion. Do the fixed or absolute speed limits, for freight-carrying, pneumatic-tired vehicles weighing in excess of five thousand pounds, of forty-five miles per hour on public highways in Indiana, except on the Indiana Toll Road where the limit is fifty-five miles per hour, as established by Acts 1939, ch. 48, § 55, p. 289; 1953, ch. 163, § 1, p. 576; 1957, ch. 225, § 1, p. 495, apply equally to such vehicles regardless of whether they are empty or in the process of carrying freight, or does this speed limit apply only when such vehicles are in the process of carrying freight?”

I find on investigation that this section of the act in question has not been interpreted by the Supreme Court of Indiana. Neither have the specific words “freight-carrying” been interpreted in any decision in our Supreme Court. Since the answer to your question depends entirely on what the phrase “freight-carrying pneumatic-tired vehicle” means, I have consulted the opinions of courts in other states concerning this question.

The Supreme Court of Wisconsin as long ago as 1932, had a similar phrase before it. That court held that the words “freight-carrying motor vehicles” used in a statute for computing ton-mile tax on such vehicles distinguished such vehicles from busses and applied both to loaded and empty vehicles.

*State ex rel. Wisconsin Allied Truck Owners Assn. et al. v. Public Service Comm. of Wisconsin et al.* (1931), 207 Wis. 664, 242 N. W. 668, 676.

Thus, the Wisconsin Court held that the two words, freight-carrying, were to be used together and were an adjective to the word “vehicle” distinguishing it from other types of vehicles. The phrase as used in the Wisconsin act is not hyphenated but in the Indiana act it is. One of the uses of hyphens is in compounding words. The use of the hyphen in this situation makes the hyphenated word a single word and the single word then performs its function in the sentence.

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(Webster's New International Dictionary, 2nd Ed., page 1227.)

The word "vehicle" is itself defined elsewhere in the same act and that definition is as follows:

"(a) Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks." Acts of 1939, Ch. 48, Sec. 2, page 289, Burns' (1952 Repl.), Section 47-1802(a).

The act goes on to define various types of vehicles including motor vehicles, motorcycles and others. It is my opinion that the section about which you inquire when read in conjunction with the definition section of the 1939 Act means that the speed regulation with which you are concerned applies to any vehicle loaded or empty which is designed or intended to be used for freight carrying and which comes within the weight limitation in the act.

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### OFFICIAL OPINION NO. 47

September 11, 1958

Hon. Adolph L. Fossler  
Treasurer of State  
State House  
Indianapolis, Indiana

Dear Sir:

You have requested my Official Opinion in respect to the following questions:

"1. Are the duties of the Treasurer of State of Indiana as Treasurer of the State Office Building Commission separate and independent from his sovereign duties as Treasurer of the State of Indiana?

"2. If the answer to one is yes, would the bond of the Treasurer of State which covers his official duties include those acts and duties of the Treasurer which