

OPINION 32

OFFICIAL OPINION NO. 32

June 12, 1950.

Mr. Arthur M. Thurston, Superintendent,
Indiana State Police,
Stout Field,
Indianapolis, Indiana.

Dear Sir:

I have your request for an official opinion which reads as follows:

“Reference is made to Indiana Acts 1949, Chapter 258, section 3, page 927 which provides, among other provisions, that owners of trucks shall declare in their applications for registration the gross limit of loads, including the vehicle itself, which the truckers intend to transport over the highways of Indiana.

“Indiana Acts 1945, chapter 304, section 76, page 1308 provides in substance that the Commissioner of Motor Vehicles may adopt and promulgate any rules and regulations necessary for carrying out the provisions of certain Indiana laws.

“It is our understanding that the Bureau of Motor Vehicles has ruled that truckers must not only declare their gross weight at the time of application for registration but they must place said gross weight lettering on the side of the truck where same is visible to police officials and others concerned.

“Please advise as to whether or not such supposed ruling by the Motor Vehicle Bureau has been duly promulgated and if so, whether or not the ruling has the effect of law so that police officers may arrest a truck operator who does not have the above gross weight lettering painted on the vehicle he is operating. Also please advise the penalty for violation of the Motor Vehicle Bureau regulation, if any.”

It is my opinion that the rules of the Department of Motor Vehicles to which you refer have been duly promulgated and

have the effect of law. Some of the statutory provisions concerning those rules are a part of Sub-section (b) of Section 2, Chapter 258 of the Acts of 1949, same being Burns 47-2606, which is as follows:

“* * * In the issuance of number plates for vehicles in the second division as hereinafter defined in this act, there shall be issued to each applicant for registration of a vehicle in such division a letter or other suitable designation to be determined by the commissioner, which letter or designation shall indicate the vehicle belongs in the second division and also the gross weight of the load that may be hauled by means of said vehicle, including the unladen weight of such vehicle fully equipped for service, which letter or designation may be attached to or placed on the regular number plate or it may be separate therefrom as the commissioner may determine; but such designation or letter shall be a part of the identification of the vehicle and shall be displayed on the vehicle at all times in accordance with the regulations governing the display of number plates as provided in this act.”

The rules construed together with the statutes governing licensure of motor vehicles, particularly the above quoted excerpt, clearly require that gross weight be designated by appropriate lettering on trucks in the second division. As no specific penalty is provided for the violation of this provision Section 74 of Chapter 304 of the Acts of 1945 would govern. Sub-sections (a) and (b) of this section are as follows:

“(a) It shall be a misdemeanor for any person to violate any of the provisions of this Act unless such violation is by this Act or any other law of this state defined to be a felony.”

“(b) Unless another penalty is in this Act or by the laws of this state provided, every person convicted of a misdemeanor for the violation of any provisions of this Act shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for not more than six (6) months, or by both fine and imprisonment.”

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It is therefore my opinion that a police officer may arrest a truck operator who does not have the appropriate identification as to gross weight affixed to the vehicle he is operating and such operator is guilty of a misdemeanor subject to a fine of not more than \$500.00 or imprisonment of not more than six months, or both.

OFFICIAL OPINION NO. 33

May 19, 1950.

Mr. Orville P. Bray,
Administrator,
World War II Bonus Fund,
431 North Meridian Street,
Indianapolis 4, Indiana.

Dear Sir:

I have your letter requesting an opinion from this office, which reads as follows:

“ In order to complete the adjudication of certain next of kin bonus claims, this department finds it necessary to seek legal opinions from your office. Your interpretation of the following listed sections of the Indiana Veterans’ Bonus Law of 1949 is respectfully requested.

“1. Section 2 (c) reads as follows: ‘The term ‘next of kin’ means the widow or widower, who has not remarried, children, mother, father and persons standing in *loco parentis* of any member of the armed forces of the United States, in the order named and none other.’

“QUESTION: If the decedent was a legally adopted child, is the adopting mother or adopting father entitled to receive a next of kin bonus payment even though the natural mother and/or father of the decedent may still be living?

“2. Section 10 reads in part as follows: ‘In case any compensation is payable under this act to a minor or