OFFICIAL OPINION NO. 70

July 27, 1949.

Mr. Thomas R. Houston,
Commissioner Department of Labor,
State of Indiana,
State House, Room 225
Indianapolis, Indiana.

Dear Sir:

We have your letter under date of July 23rd requesting an official opinion regarding the following question:

> "Does the truck weight law from Senate Bill No. 138 of the 1949 session of the State Legislature give the court the right to suspend the registration of the motor vehicle for an overweight violation, in addition to the assessment of a fine?"

Section numbered Four (4) of Senate Bill numbered One Hundred Thirty Eight (138), the same being Chapter Two Hundred Sixty Nine (269) of the Acts of 1949 is as follows:

> "Any person who violates any provision of this act for which another penalty is not specifically provided herein shall be guilty of a misdemeanor and upon conviction thereof, shall be fined for the first offense in any sum not exceeding five hundred dollars; and for the second or other subsequent offense in any sum not exceeding five hundred dollars and in addition to such fine the court, in its discretion, may suspend the registration of the vehicle used in such violation, for a period not exceeding ninety days. * * *."

We particularly direct your attention to the following language quoted from said section:

> "for which another penalty is not specifically provided herein"

Section numbered Three (3) of the act very definitely provides for penalties of those guilty of overweight violations. And is as follows:

> "Any person who violates the provisions of section 8 of this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined in an amount equal to two cents per pound for each pound of excess load over one thousand pounds when the excess is two thousand pounds or less; four cents per pound for each pound of excess load when the excess exceeds two thousand pounds and is three thousand pounds or less; six cents per pound for each pound of excess load when the excess exceeds three thousand pounds and is four thousand pounds or less; eight cents per pound for each pound of excess load when the excess exceeds four thousands pounds and is five thousand pounds or less; ten cents per pound for each pound of excess load when the excess is five thousand pounds or more."

From the foregoing it is, therefore, obvious that the court's discretionary power of suspension is not to be employed in overweight cases.

Statutes are to be strictly construed and legislative intent applied to their construction. Therefore, to ascertain the intent of the Legislature all sections and provisions of Chapter Two Hundred Sixty Nine (269) *(supra)* should be construed and in doing so we are of the opinion that suspension is not applicable to overweight cases for the reason another penalty is specifically provided in Section Three of said Act.

May v. Hoover, 112 Ind. 455.

Your attention is also directed to the Attorney General's Official Opinion numbered 17 (1949) in which your question is also discussed.

JAW:mfl