

## OFFICIAL OPINION NO. 32

April 6, 1948.

Hon. H. Dale Brown,  
Deputy Commissioner and Director,  
Bureau of Motor Vehicles,  
State House,  
Indianapolis, Indiana.

Dear Mr. Brown:

This is to acknowledge your request of March 23, 1948, for an opinion concerning special permits issued by the State Highway Commission, and the registration and requirement of motor vehicles in the Motor Vehicle Code. Specifically you quoted in your letter the following:

“Captain Lewis in charge of Field Operations, Indiana State Police, has requested this Department to ask the Attorney General for a written opinion as to the following question.

“Is a special Highway Commission permit issued for loads exceeding maximum limits permitted by law, on a vehicle which requires registration to operate on the highway, in lieu of registration and exempting operator from regular registration when operating under such permit?”

The pertinent provisions of our law relating to permits issued by the Highway Commission or local authorities for transporting heavy vehicles and loads over the highways of this State are found in Section 47-538 of Burns' Indiana Statutes, 1940 Replacement. Some of the provisions of that law are as follows:

“The state highway commission or local authorities having jurisdiction over any public highways and being responsible for the *repair and maintenance thereof is authorized upon proper application in writing upon good cause shown to grant permits for transporting heavy vehicles and loads, or other objects, not conforming to the provisions of sections two and eight (§§ 47-530, 47-536) of this act, whenever in the discretion of any such officer or body the highway or bridge*

*thereon will not be seriously damaged thereby. \* \* \* such permit may designate the route to be traversed and contain any other restrictions or conditions deemed necessary by the authority granting such permit for a proper protection of such highway or bridge. Before any such permit shall be issued the applicant shall satisfy the officer or body issuing such permit of his responsibility to respond in damages for any injury to the highway or bridge or furnish satisfactory bond or other security \* \* \*."* (Our emphasis.)

The intent of the quoted provisions of the foregoing Act indicates that the Legislature contemplated a protection on the highways of this State from damage by unusual loads being transported thereon, or to furnish a means by which damages sustained from transportation of unusual loads would be compensated for by the person or persons causing such damage. It is my opinion that this section of the statute is designed for the purpose of highway maintenance, repair and protection. This is true, in view of the rule of statutory construction that in construing any statute, the legislative intent must be kept constantly in view and if the language is plain and unambiguous, the legislative intent as expressed by the language must prevail. *Vollmer v. Board, etc.* (1912), 53 Ind. App. 149.

The Supreme Court in construing a statute relative to gross weight of vehicles traveling on public highways (not the statute above referred to) stated as follows:

*"\* \* \* Every statute must be construed with reference to the object intended to be accomplished by it. In order to ascertain this object, it is proper to consider the occasion and the necessity of its enactment and the evil which was intended to be prohibited. \* \* \* The intent of the legislature and the evil sought to be prohibited was to prevent the highways and bridges of the state from being subject to excessive loads; \* \* \*"* *Snyder v. State* (1932), 204 Ind. 666, at page 669.

The statute under consideration is a portion of the law relative to weights and loads transported on the highways of

this State, the same as was the statute in the Snyder case. In connection with Burns', Section 47-538, *supra*, see also the original Act, Acts 1931, Chapter 83, Section 1, page 235, *et seq.* See also the amendments to Section 47-538 of Burns' *supra*, in Acts 1937, Chapter 275, Section 3, page 1274. In view of the foregoing statutes, the objective of Section 47-538 is clearly to protect state highways.

The next question then is, do Sections 47-2601 *et seq.* of Burns' Indiana Statutes, 1947 Pocket Supplement, have an objective and purpose different from that of Section 47-538 of Burns' referred to *supra*? And also, does the exception in Section 47-538 of Burns' Indiana Statutes, which is as follows:

"The state highway commission \* \* \* is authorized upon proper application in writing upon good cause shown to grant permits for transporting heavy vehicles and loads, or other objects, not conforming to the provisions of sections two and eight (§§ 47-530, 47-536) of this act."

preclude a registration of motor vehicles as contemplated by Section 47-2601, *et seq.* of Burns' 1947 Pocket Supplement?

The intent of Section 47-2601, *et seq.*, is to provide a means for proper identification of ownership, and transfer of ownership of motor vehicles within the State of Indiana and to collect a license fee for the privilege of operating motor vehicles within the state. This intent is manifested by a reading of Sections 46-2601 *et seq.* Burns' 1947 Pocket Supplement. It is provided in 47-2614 Burns' 1947 Pocket Supplement that:

"No owner of any motor vehicle *except the owner of trucks or other motor vehicle or vehicles used in transporting passengers or property for hire, who shall have obtained a certificate of registration under the provisions of this act, as hereinbefore provided, shall be required to pay another license fee whatsoever, or to obtain any other license or permit to use or operate any such motor vehicle on the public highways nor shall any such owner be required to display upon such motor vehicle any other number than that issued by the department.*" (Our emphasis.)

This section makes an exception for the charging of an additional fee for the use of the roadways of the State in some instances. Section 47-538 of Burns' referred to *supra*, does not expressly obviate the necessity of registering vehicles, and so I believe the permit requirement for excessive weights, and the registration requirement are not inconsistent. It is proper and mandatory for a vehicle which comes within the purview of Section 47-2601 of Burns' 1947 Pocket Supplement to be registered. It is also necessary to obtain a permit from the State Highway Commission to use the same vehicle on the roads of the State when that vehicle does not comply, loaded or unloaded, with Sections 47-530 and 47-536 of Burns' Indiana Statutes, 1940 Replacement.

Section 47-530 of Burns' Indiana Statutes and Section 47-536 of Burns' Indiana Statutes do not specifically mention that vehicles not conforming to the provisions of those sections may not be registered under the law providing for registration in Section 47-2601 Burns' Indiana Statutes 1947 (Pocket Supplement). The provision requiring a special permit which is found in Section 47-538 of Burns', referred to *supra*, only stipulates that a permit must be obtained from the Highway Commission, when the vehicle or load does not comply with Sections 47-530 and 47-536 of Burns' Indiana Statutes. Therefore, it is my opinion that the registration requirement is a primary one for the operation of motor vehicles upon the highways of the State, and the permit requirement for excessive weights is a secondary requirement in addition to registration for the protection of the roadways in certain instances. In fact, the quoted provision of Section 47-2614, Burns' Indiana Statutes 1947 Pocket Supplement, see *supra*, recognizes the fact that in certain instances (trucks and vehicles used in transporting property for hire) additional requirements may be added in order to operate on the highways of the State.

In conclusion, I am of the opinion that a vehicle, which requires registration to be operated on the highways of the State, must be registered even though a temporary permit has been granted by the Highway Commission to operate such vehicle with a load exceeding the maximum, and the permit to transport a greater load than maximum is not in lieu of registration.