

3406

THE HIGHWAY PATROL IS AUTHORIZED TO ENFORCE STATE LAWS ON ALL ROADS AND HIGHWAYS OF THE STATE INCLUDING THOSE WITHIN MUNICIPAL CORPS.— §5503.02, R.C., OPINION 2573, OAG, 1948, OPINION 6061, OAG, 1955, §5577.02, R.C.

SYLLABUS:

Section 5503.02, Revised Code, authorizes the state highway patrol to enforce the limitations of Section 5577.04, Revised Code, on all roads and highways of the state, including roads within municipal corporations, and the patrol is authorized to make arrests for violations of those limitations on all such roads and highways.

Columbus, Ohio, November 9, 1962

Hon. Thomas A. Beil, Prosecuting Attorney  
Mahoning County, Youngstown, Ohio

Dear Sir :

I have before me your request for my opinion which reads as follows :

“Certain questions have arisen with respect to the jurisdiction of the Ohio State Highway Patrol inside incorporated municipalities, among other things with respect to Section 5503.02 of the Revised Code of Ohio. The questions set forth herein refer to the operation of motor vehicles.

“1) What is the jurisdiction of the Highway Patrol with reference to making arrests to enforce the provisions of Revised Code 5577.04, maximum axle load, wheel load and gross weights, other than state highways within an incorporated municipality, in other words, on city streets?

“2) What is the jurisdiction of the patrol to make arrests to enforce Section 5577.04 within a municipality on a state highway located inside the municipality?”

Section 5503.02, Revised Code, provides in part :

*“The state highway patrol shall enforce the laws of the state relating to the registration and licensing of motor vehicles; enforce, on all roads and highways, notwithstanding section 4513.39 of the Revised Code, the laws relating to the operation and use of vehicles on the highways; enforce and prevent the violation of the laws relating to the size, weight, and speed of commercial motor vehicles and all laws designed for the protection of the highway pavements and structures on such highways; investigate and report to the public utilities commission violations of its rules and regulations and the laws governing the transportation of persons and property by motor transportation companies and all other motor carriers for hire; investigate and report violations of all laws relating to the collection of excise taxes on motor vehicle fuels; and regulate the movement of traffic on the roads and highways of the state, notwithstanding section 4513.39 of the Revised Code.*

“The patrol shall, whenever possible, determine the persons causing or responsible for the breaking, damaging, or destruction of any improved surfaced roadway, structure, sign, marker, guard-rail, or any other appurtenance constructed or maintained by the department of highways and shall arrest persons responsible

therefor and bring them before the proper officials for prosecution. The state highway patrolmen shall investigate and report all motor vehicle accidents on all roads and highways outside of municipal corporations. The superintendent of the state highway patrol or any patrolman may arrest without a warrant any person, who is the driver of or a passenger in any vehicle operated or standing on a state highway, whom he has reasonable cause to believe is guilty of a felony, under the same circumstances and with the same power that any peace officer may make such arrest. The superintendent or any patrolman may enforce the criminal laws on all state properties and state institutions, owned or leased by the state.

“\* \* \*

\* \* \*

\* \* \*”

One of my predecessors in Opinion No. 2573, Opinions of the Attorney General for 1948, page 7, considered the authority of the state highway patrol to enforce the traffic laws of this state on streets within a municipal corporation. The first syllabus of that portion states:

“1. The amendment by the 97th General Assembly of Section 1183-2, General Code, had the effect of authorizing and requiring the state highway patrol to enforce the laws relating to the operation and use of vehicles on all roads and highways within as well as outside of municipal corporations.”

Section 1183-2, General Code, is now Section 5503.02, Revised Code. Previous to its amendment in 1947 that section clearly limited the authority of the patrol to roads and highways outside of municipal corporations. The 1947 amendment (122, Ohio Laws, 531) expanded the authority of the patrol, however, as indicated by the 1948 opinion above. At page 10 of the 1948 Opinion, it is stated:

“\* \* \* The obvious purpose and the only possible effect of these changes was to give the state highway patrol the right to enforce the laws of the state relating to motor vehicles and traffic on the highway *within the boundaries of a municipal corporation*, which previously they were forbidden by the terms of said Section 1183-2 to do.

Although some language of former Section 1183-2, General Code, was altered in the code revision of 1953, no substantive change was made in the law. Thus, the conclusion of Opinion No. 2573, *supra*, applies to present Section 5503.02, Revised Code.

It is apparent that the jurisdiction of the state highway patrol in regard to the laws pertaining to weight, size, and speed of commercial

vehicles is the same as in the case of laws relating to the operation and use of vehicles. Section 5503.02, *supra*, provides that the patrol shall “enforce the laws relating to the operation and use of vehicles on the highways; enforce and prevent the violation of the laws relating to the size, weight, and speed of commercial motor vehicles and all laws designed for the protection of the highway pavements and structures *on such highways \* \* \**.” The words “such highways” can only refer to the earlier language of the section giving the patrol enforcement powers in the laws relating to the operation and use of vehicles *on the highways*, which I construe to include roads and highways within municipal corporations. I might further point out that one of my predecessors in Opinion No. 6061, Opinions of the Attorney General for 1955, page 689, in ruling that the state highway patrol has jurisdiction on roads in conservancy districts, construed the phrase, “all roads and highways,” and stated:

“It will be observed that the statute refers to enforcement of the traffic laws on ‘all roads and highways.’ The legislature has employed rather sweeping language, and it would appear that something broader in meaning than what is known as the ‘state highway’ system was intended.

“The word ‘road’ is uniformly taken to mean a *public* way or highway, in both legal and common acceptance. See *Heiple v. City of East Portland*, 8 P., 907, 909. ‘Roads’ and ‘highways’ are generic terms, embracing all kinds of *public* ways, such as county and township roads, streets, etc. See *Shannon v. Martin*, 139 S.E., 671, 672.

“In view of the purpose sought to be accomplished by the legislature, which was the protection of the motoring public through traffic law enforcement, the statutory reference to ‘all roads and highways’ merits a construction liberal enough to enable the highway patrol to perform its function effectively. This means that *public* roads, wherever located, conservancy districts not excepted, are within the patrol’s authority to patrol.”

Section 5577.04, Revised Code, here concerned, imposes maximum axle loads and towing connection lengths for vehicles, trackless trolleys, loads, objects, or structures, operated or moved upon improved public highways, streets, bridges, or culverts. Section 5577.02, Revised Code, provides:

“No trackless trolley, traction engine, steam roller, or other vehicle, load, object, or structure, not including vehicles run upon stationary rails or tracks, fire engines, fire trucks, or other vehicles or apparatus belonging to or used by any municipal or

volunteer fire department in the discharge of its functions, shall be operated or moved over or upon the improved public streets, highways, bridges, or culverts in this state, upon wheels, rollers or otherwise, weighing in excess of the weights prescribed in sections 5577.01 to 5577.14, inclusive, of the Revised Code, including the weight of vehicle, object, structure, or contrivance and load, except upon special permission, granted as provided by section 4513.34 of the Revised Code.”

In view of the reference of Section 5577.02, *supra*, to improved public streets, highways, bridges, or culverts *in this state*, it is apparent that the limitations of Section 5577.04, *supra*, apply both within and without municipal corporations. It will also be noted that Section 5577.99, Revised Code, provides penalties for violations of the weight provisions and other provisions of Chapter 5577., Revised Code. Finally, I consider the limitations of Section 5577.04 to be within the purview of the laws relating to the operation and use of vehicles on the highways and laws relative to the size, weight, and speed of commercial motor vehicles and all laws designed for the protection of the highway pavements and structures on such highways.

Accordingly, since the state highway patrol is empowered to enforce and prevent the violation of laws relating to the size, weight, and speed of commercial motor vehicles and all laws designed for the protection of the highway pavements and structures on such highways, the patrol is authorized to enforce the provisions of Section 5577.04, *supra*, on city streets.

The enforcement of Sections 5577.04, *supra*, obviously entails the arrest of violators of its provisions, and the highway patrol is therefore authorized to make arrests for violations of the requirements of Section 5577.04, *supra*, where such violations occur on state highways located in a municipal corporation or on the streets in a municipal corporation.

In summary, therefore, it is my opinion and you are advised that Section 5503.02, Revised Code, authorizes the state highway patrol to enforce the limitations of Section 5577.04, Revised Code, on all roads and highways of the state, including roads within municipal corporations, and the patrol is authorized to make arrests for violations of those limitations on all such roads and highways.

Respectfully,  
MARK McELROY  
Attorney General