

OPINION NO. 75-095**Syllabus:**

A power unit specially designed to carry automobiles independent of those transported on an attached semitrailer is a commercial car, as defined in R.C. 4501.01 (G), for purposes of determining the allowable length of the power unit in combination with a semitrailer under R.C. 5577.05 (B).

To: Richard D. Jackson, Director, Ohio Dept. of Transportation, Columbus, Ohio
By: William J. Brown, Attorney General, December 30, 1975

I have before me your request for my opinion concerning the allowable length of vehicles used for transporting automobiles.

R.C. 5577.05, which was amended effective November 26, 1975, provides for the maximum width, height and length of vehicles operated in Ohio. In pertinent part that section provides:

"(B) No such vehicle shall have a length in excess of:

"(1);

"(2);

"(3);

"(4) Sixty feet for the overall length of a commercial tractor and semitrailer combination, with or without load;

"(5) Sixty-five feet for any other combination of vehicles coupled together, with or without load.
. . ." (Emphasis added.)

The issue of your particular concern, as developed during meetings had between this office and yours, involves the use of a particular power unit in combination with a semitrailer. The power unit is specifically designed and equipped to carry automobiles additional to the automobiles carried on the semitrailer. The question is whether this power unit is a "commercial tractor" or a "commercial car." If it is a "commercial tractor" then the length limitation of R.C. 5577.05(B)(4) applies. If it is a "commercial car" then the length limitation of R.C. 5577.05(B)(5) applies.

The terms "commercial tractor" and "commercial car", as used in R.C. 5577.05, are defined, respectively, in R.C. 4501.01(D) and (G) as follows:

"(D) 'Commercial tractor' except as defined in division (C) of this section means any motor vehicle having motive power designed or used for drawing other motor vehicles, or designed or used for drawing another motor vehicle while carrying a portion of such other motor vehicle or its load, or both."

"(G) 'Commercial car' means any motor vehicle having motor power designed and used for carrying merchandise or freight, or used as a commercial tractor." (Emphasis added.)

The problem with these definitions is that they overlap. It first appears that all power units used to draw, for example, a semitrailer are commercial tractors. On the other hand, it is apparent from a review of the commercial car definition that at least some power units are not commercial tractors but are in-

stead "used as commercial tractors" and are, therefore, commercial cars. In fact, the specially designed power unit addressed herein is a unit which functions as a "commercial tractor" in that it draws a loaded semitrailer but also functions as a "commercial car" in that it carries freight.

In closely reviewing the definition of a commercial tractor it becomes apparent that a commercial tractor, at best, carries only a portion of another vehicle's load. That is, the commercial tractor definition does not encompass a unit which independently carries freight - as does the specially designed power unit in question. The definition of a commercial car, however, includes a unit which independently carries freight as well as a unit which draws a semitrailer and is therefore "used as a commercial tractor." Accordingly, of the only two available definitions for this specially designed power unit, it is the broader "commercial car" definition which most accurately describes the unit.

Concern has been expressed by your office that if this specially designed unit is to be classed as a commercial car because it is "used as a commercial tractor" then the door will have been opened for what are only commercial tractors to also be classed as commercial cars. The result of that would be that the longer length provisions of R.C. 5577.05 (B) (5), instead of those in R.C. 5577.05 (B) (4) would apply. Your concern, however, is resolved by recognizing that a unit which is readily identified and exclusively used as a commercial tractor is properly classed only as a commercial tractor under R.C. 4501.01(D). It is only when the design of a power unit lends the unit to additional uses that the commercial car definition is to be considered for application.

In the absence of other clarifying statutory definitions or judicial determinations relative to distinctions between a commercial tractor and commercial car under R.C. 4501.01 (D) and (G), a conclusion other than that reached above would run against basic rules of statutory construction. That is, if one were to conclude that any commercial tractor is a commercial car because, in fact, a commercial tractor is "used as a commercial tractor" then one must have first concluded that the definition of a commercial tractor can be easily bypassed and is, therefore, of no use. Where the legislature has enacted specific language it is wholly inappropriate to ignore it where another conclusion yields a reasonable result while making use of the enacted language. See R.C. 1.47 (B) and (D).

It is, then, my opinion and you are advised that a power unit specially designed to carry automobiles independent of those transported on an attached semitrailer is a commercial car, as defined in R.C. 4501.01 (G), not a commercial tractor as defined in R.C. 4501.01(D), and for purposes of determining the allowable length of the power unit in combination with a semitrailer under R.C. 5577.05(B), they are an "other combination."