

needs of a municipality for such purpose, such expenditure may be made. However, as hereinbefore indicated, this would not include the power to purchase land from such funds.

In my Opinion No. 1024, issued to your Bureau under date of October 14, 1929, it was held that the gasoline tax distributed under Section 5537 could not be used to purchase additional land for the widening of the public streets. However, in my Opinion No. 1271, issued under date of December 9, 1929, it was held that the funds distributed under Section 5541-8 could be used for the purpose of purchasing additional right of way for widening the streets by reason of the express provisions of the section last mentioned, to the effect that the funds could be used for the purpose of widening.

In view of the foregoing, it is my opinion that:

1. The city's portion of the motor vehicle license tax and gasoline tax may not be used for the purpose of purchasing land upon which there is erected an asphalt plant or for the purpose of purchasing land upon which there is to be erected such a plant.

2. A municipality may properly use such funds for the purpose of purchasing equipment to be placed in an asphalt plant if such a procedure is reasonable in view of the cost of the same and the mileage of streets required to be maintained, when such plant is to be used for the sole and exclusive purpose of maintaining, repairing, constructing or repaving such streets.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

1637.

MOTOR VEHICLE—EXCEEDING 30 FEET IN LENGTH—AUTHORIZED BY PERMIT TO BE DRIVEN ON HIGHWAYS—NECESSITY FOR REGISTRATION—PROVISION OF CONDITIONAL ISSUE SUBJECT TO SECURING OF PERMIT NOT TO BE INCORPORATED IN REGISTRATION.

1. *When a permit has been issued under Section 7247, General Code, authorizing a motor vehicle in excess of thirty feet in length to be operated on the public roads and highways of this State, such vehicle must also be registered as provided in Sections 6294 and 6298, General Code.*

2. *Such registration should not contain a provision that it is conditionally issued subject to a permit being secured for the operation of such vehicle, since such vehicle may, under the provisions of Section 7248-2, General Code, only be operated pursuant to the issuance of a permit irrespective of the registration thereof.*

COLUMBUS, OHIO, March 19, 1930.

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

“Section 6294 of the General Code provides that every owner of a motor vehicle which shall be operated or driven upon the public roads or highways of this state, except as herein otherwise expressly provided, shall

cause to be filed by mail or otherwise in the office of the Commissioner of Motor Vehicles or a deputy commissioner a written application in triplicate for registration.

Section 6298 of the General Code provides that upon the filing of such application and the payment of the tax imposed by this chapter the Commissioner or deputy shall assign to such motor vehicle a distinctive number and issue a certificate of registration.

Section 7246 of the General Code provides that no motor vehicle weighing in excess of ten tons including weight of vehicle and load, shall be operated over and upon the improved public streets, inter-county highways, main market roads, etc., except as provided in this chapter.

Section 7247 of the General Code provides for permission to be given by the county surveyor of any county, the director of public service of the city or mayor of village or the director of public highways or public works for the operation of a motor vehicle upon the inter-county highways, main market roads, improved public highways, streets, etc., within a city or village or respectively the improved public highways, streets, etc., within the State in regard to inter-county movement.

Section 7248-2 provides for the maximum width, heighth, and length of motor vehicles and likewise provides for written permits to be granted as provided in this chapter.

An application has been made to this department in proper form accompanied by a proper tax imposed by law and said motor vehicle was listed for taxation for personal property taxes and accompanied by proper bills of sale and sworn statement of ownership. This motor vehicle is one of those motor vehicles that exceeds the limits as laid down in the statutes hereinbefore cited. This motor vehicle was licensed last year and has been operated only upon written permit secured from proper authorities as provided by law. No violation of law with respect to the operation of this motor vehicle without permit or permits as required by law has come to the attention of this department and the applicant stated that this motor vehicle will only be operated under such permits duly and regularly applied for and issued.

Please render to me at your earliest convenience an opinion answering the following questions:

1. Can this motor vehicle be operated by the owner in Ohio without a certificate of registration after permits are secured from the proper officer or officers as provided by law?
2. Shall this department issue a certificate of registration for such motor vehicle without qualifying the same?
3. May this department issue a certificate of registration to the owner of this motor vehicle limiting the operation or use of the same only upon permit secured, as provided by law?"

I am advised that the motor vehicle in question exceeds thirty feet in length. Section 7248-2, General Code, provides:

"No vehicle shall be operated upon an inter-county highway or main market road, \* \* \* of a greater length than thirty feet, \* \* \* provided, that in special cases vehicles whose dimensions exceed the foregoing may operate under a written permit granted as provided in this chapter. \* \* \* \* \*"

The reference herein to a written permit authorizing the operation of a motor vehicle which is more than thirty feet in length is to Section 7247, General Code, which reads as follows:

"The county surveyor of any county, upon application in writing by the owner or person having charge thereof, may grant permission for the moving of vehicles, objects or structures in excess of a total weight of twelve tons, including weight of vehicle, object or contrivance, structure and load, over the improved inter-county highways, main market roads, bridges or culverts within such county and located outside of any municipal corporation or corporations therein situated. Such permission shall be in writing and the county surveyor may grant the same, subject to such conditions and restrictions as in his judgment are necessary for the preservation and protection of such highways, bridges and culverts. The director of public service of a city or mayor of a village may in like manner grant such permission as to the improved public highways, streets, bridges or culverts within such city or village.

The director of the department of highways and public works may in like manner grant such permission as to the improved public highways, streets, bridges or culverts within this state in regard to all inter-county movements of such vehicles, objects or structures, or, in regard to any such movement wholly upon any portion of the inter-county highways, bridges or culverts."

Section 6294, General Code, to which you refer, provides:

"Every owner of a motor vehicle which shall be operated or driven upon the public roads or highways of this state shall before the first day of January of each year, except as herein otherwise expressly provided, cause to be filed, by mail or otherwise, in the office of the commissioner of motor vehicles or a deputy commissioner, a written application in triplicate for registration for the following year, beginning the first day of January of such year, on blanks to be furnished by the commissioner of motor vehicles for the purpose, containing the following information:

\* \* \* \* \*

The only exception to the requirement as to registration of every motor vehicle as defined in Section 6290, General Code, which shall be operated or driven on the public roads and highways of this state, is contained in Section 6306, General Code, 113 O. L. 475. This latter section exempts a motor vehicle which is registered in a state other than the State of Ohio, from the requirement of registration of motor vehicles under certain circumstances. There is no exemption provided dependent upon the size or weight of a motor vehicle, and it is, therefore, obvious that the matter of size or weight has no bearing upon the requirements as to registration.

It is further pertinent to note that the information required to be filed in making application for the registration of a motor vehicle, as set forth in Section 6294, contains no reference as to the length of such vehicle.

You next inquire as to the matter of the issuance of a limited or qualified certificate of registration. Section 6298, General Code, to which you also refer, contains no authority for the issuance of a limited, conditional, or qualified registration. In a sense every certificate of registration of a motor vehicle issued under

Section 6298 is a qualified certificate, the qualification being that such certificate does not authorize the use of a motor vehicle upon the public roads and highways of this state in violation of the law. Section 7246, General Code, as amended by the 88th General Assembly, places a limitation upon the weight of a vehicle, including load, which may be operated on the improved highways, streets and bridges in this state. It does not follow, because of this limitation, that the certificate of registration of a truck, for instance, shall contain any statement as to the limitation of the load which such truck may carry. The limitations in regard to this matter are effective without the necessity of being incorporated in the certificate of registration.

Specifically answering your questions, it is my opinion that:

1. When a permit has been issued under Section 7247, General Code, authorizing a motor vehicle in excess of thirty feet in length to be operated on the public roads and highways of this state, such vehicle must also be registered as provided in Sections 6294 and 6298, General Code.

2. Such registration should not contain a provision that it is conditionally issued subject to a permit being secured for the operation of such vehicle, since such vehicle may, under the provisions of Section 7248-2, General Code, only be operated pursuant to the issuance of a permit irrespective of the registration thereof.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

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1638.

APPROVAL, BONDS OF EUCLID VILLAGE SCHOOL DISTRICT, CUYA-HOGA COUNTY—\$114,000.00.

COLUMBUS, OHIO, March 19, 1930.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*

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1639.

HOUSE BILL NO. 343—PROVISO ADDED TO SECTION 4696, GENERAL CODE, RELATES ONLY TO TRANSFERS OF SCHOOL TERRITORY AUTHORIZED BY SAID SECTION.

**SYLLABUS:**

*The proviso or exception added to Section 4696, General Code, by amendment in House Bill No. 343 of the 88th General Assembly, relates to the subject matter immediately preceding it in the same section, and therefore relates only to transfers of school territory authorized by said Section 4696, General Code.*