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HIGHWAYS—WEIGHT LIMITS, TRUCKS—"MAXIMUM AXLE LOAD"—TANDEM AXLES, SPACED EIGHT FEET OR MORE APART—PROCEDURE FOR WEIGHING—§5577.04 R.C.

SYLLABUS:

Under the provisions of Section 5577.04, Revised Code, tandem axles spaced eight feet or more apart should be weighed separately to determine whether each axle is within the prescribed "maximum axle load," and should be weighed as a unit to determine whether such axles are within the prescribed weight limitation applicable to successive axles eight feet or more apart.

Coulmbus, Ohio, September 8, 1958

Hon. Wilford R. Miller, Prosecuting Attorney
Tuscarawas County, New Philadelphia, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"The local law enforcement agencies in this County have requested that I seek from your office an interpretation of Section 5577.04 of the Revised Code of Ohio, and specifically that portion of the statute relating to maximum axle load.

"Certain truck and trailer manufacturers are now manufacturing truck trailers with tandem axles which exceed the 8 ft. space stated in the second paragraph of the statute. I enclose herewith a manufacturer's diagram of such a trailer.

"In determining the weight per axle, our local law enforcement agencies have been weighing each axle separately, believing

that is required by the wording of the statute relating to successive axles spaced 8 ft. or more apart.

"On the other hand, the local truck operators maintain that since these tandem axles are connected together and operate as one unit that the same should be weighed as one unit.

"Therefore my question is as follows:

> 'Under Section 5577.04 of the Revised Code, may the tandem axles be weighed as one unit although the axles are spaced more than 8 feet apart or must they be weighed separately?'

"It is my own opinion that the procedure followed in the past is correct and that each axle must be weighed separately. However, there has been some trouble on this point and the arresting officers would like to know whether or not they are proceeding properly."

Section 5577.04, Revised Code, provides as follows:

"No vehicle, trackless trolley, load, object, or structure having a maximum axle load greater than sixteen thousand pounds when such vehicle is equipped with solid rubber tires, or greater than nineteen thousand pounds when such vehicle is equipped with pneumatic tires, shall be operated or moved upon improved public highways, streets, bridges, or culverts. The maximum wheel load of any one wheel of any such vehicle shall not exceed six hundred fifty pounds per inch width of tire, measured as prescribed by section 5577.03 of the Revised Code, nor shall any solid tire of rubber or other resilient material, on any wheel of any such vehicle, be less than one inch thick when measured from the top of the flanges of the tire channel.

"The weight of vehicle and load imposed upon the road surface by any two successive axles, spaced four feet or less apart, shall not exceed nineteen thousand pounds for solid tires, nor twenty-four thousand pounds for pneumatic tires; or by any two successive axles, spaced more than four feet but less than eight feet apart, shall not exceed twenty-four thousand pounds for solid tires, nor thirty-one thousand five hundred pounds for pneumatic tires; or by any two successive axles, spaced eight feet or more apart, shall not exceed twenty-eight thousand pounds for solid tires, nor thirty-eight thousand pounds for pneumatic tires, nor shall the total weight of vehicle and load exceed, for solid rubber tires, twenty-eight thousand pounds plus an additional six hundred pounds for each foot or fraction thereof af spacing between the front axle and the rearmost axle of the vehicle, nor exceed thirty-eight thousand pounds plus an additional eight hundred pounds for each foot of spacing between the front axle and the rearmost axle of the vehicle for pneumatic tires; nor shall the

> weight of vehicle and load imposed upon the road surface by any vehicle exceed seventy-eight thousand pounds for pneumatic tires; nor shall such weight of vehicle and load exceed, for solid tires, eighty per cent of the permissible weight of vehicle and load, as provided for pneumatic tires."

From a reading of this statute it seems clear that the legislature has provided:

(1) An absolute prohibition of any vehicle having a "maximum axle load" greater than nineteen thousand pounds being operated or moved on improved public highways, streets, bridges or culverts.

(2) A "maximum wheel load" of any one wheel of any such vehicle.

(3) A limitation of the weight of vehicle and load that may be imposed on the road surface by any two successive axles.

(4) Gross weights that may be imposed upon the road surface by any vehicle and load.

The question you are concerned about is whether the provision of Section 5577.04, Revised Code, in prescribing a limitation of weight which may be carried upon one axle are to be applied to all vehicles and especially to vehicles equipped with tandem or successive axles spaced more than eight feet apart.

Section 5577.01, Revised Code, reads in part as follows:

> "(3) 'Maximum axle load' means the gross weight of vehicle and load imposed by any axle upon the road surface.
>
> "(4) 'Maximum wheel load' means the proportionate gross weight of vehicle and load imposed by any wheel upon the road surface.
>
> "(B) 'Vehicle,' as used in Section 5577.04 of the Revised Code, means any single vehicle when not in combination, or any combination of vehicles, as defined in section 4501.01 of the Revised Code."

Thus in the first paragraph of Section 5577.04, Revised Code, the legislature has prescribed two limitations as to weight that may be imposed upon the road surface by any single vehicle not in combination or any combination of vehicles. The first limitation is as to the gross weight of vehicle and load which may be imposed upon the road surface by *any* axle; the second limitation is the proportionate gross weight of vehicle

and load imposed by any wheel upon the road surface. The legislature has specifically prescribed that no vehicle which exceeds such prescribed limitations on weight shall be operated or moved upon the improved public highways, streets, bridges, or culverts.

As to your specific question, "May tandem axles be weighed as one unit although the axles are spaced more than eight feet apart or must they be weighed separately?" I am of the opinion that they should be weighed separately and also as a unit. I am impelled to this conclusion by the wording of the statutes here involved. To say that tandem or successive axles eight feet or more apart should be weighed as a unit only, may, in some cases, have the effect of nullifying the prescribed "maximum axle load" (and the "maximum wheel load") any vehicle may impose upon the road surface. As is said in Sutherland, Statutory Construction, Section 4705, p. 339 "A statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant, and so that one section will not destroy another unless the provision is the result of obvious mistake or error."

In specific answer to your question, I am of the opinion and you are accordingly advised that, under the provisions of Section 5577.04, Revised Code, tandem axles spaced eight feet or more apart should be weighed separately to determine whether each axle is within the prescribed "maximum axle load," and should be weighed as a unit to determine whether such axles are within the prescribed weight limitation applicable to successive axles eight feet or more apart.

Respectfully,
WILLIAM SAXBE
Attorney General