

2152.

MOTOR VEHICLE LICENSE LAW—WHEEL MOUNTS, USED TO TRANSPORT POWER SHOVEL, CONSTITUTE “TRAILER”—SUBJECT TO SUCH LAW.

SYLLABUS:

Wheel mounts which are used to transport a power shovel, constitute a trailer and are subject to the motor vehicle license laws.

Columbus, Ohio, April 6, 1940.

Hon. Cylon W. Wallace,
Registrar, Bureau of Motor Vehicles,
Columbus, Ohio.

Dear Sir:

This will acknowledge receipt of your recent request for my opinion as follows:

“Calling your attention to the definition of motor vehicle in Section 6290 G. C. wherein a power crane or power shovel vehicle is excepted as being a motor vehicle and therefore not requiring license plate registration, the question has been raised as to whether or not ‘wheel mounts’ attached to a power shovel vehicle constitutes a trailer or trailers requiring trailer license plate registration. These ‘wheel mounts,’ sometimes referred to as ‘transport trucks,’ are used to transport power shovel vehicles over the highway from job to job and are removed when the power shovel is in operation.

Attached herewith is a catalog giving graphic description of the wheel mounts.

Will you kindly give us your early opinion as to whether or not such ‘wheel mounts’ constitute a trailer or trailers?”

An examination of the catalogue submitted with your request reveals that the so-called wheel mounts consist of two sets of wheels and axles, the front axle being equipped with an automotive type of steering mechanism and having a heavy tongue for hooking to a motor truck. The power shovel is driven onto the wheel mounts under its own power and the wheel mounts are fastened to a motor truck, thereby permitting transportation of the power shovel at motor truck speed.

The term "trailer" is defined in Section 6290, General Code, which provides in part:

"'Trailer' means any vehicle without motive power designed or used for carrying property or persons wholly on its own structure and for being drawn by a motor vehicle, and means and includes any such vehicle when formed by or operated as a combination of a 'semi-trailer' and a vehicle of the dolly type such as that commonly known as a 'trailer-dolly.'"

The apparatus in question, if considered alone, is obviously a trailer. It is a vehicle without motive power and is designed or used for carrying property on its structure and for being drawn by a motor vehicle. Consequently, if no further points are to be considered, such equipment is subject to the motor vehicle licensing laws.

Section 6290, paragraph 1, General Code, expressly excepts power shovels from the definition of "motor vehicle". If wheel mounts are considered as a part of the power shovel, then such apparatus is not subject to motor vehicle taxation.

In the case of *Pacific Company v. Johnson*, 285 U. S. 480, the court said at page 491:

"Grants of immunity from taxation in derogation of a sovereign power of the state, are strictly construed."

An examination of the facts reveals that even without wheel mounts, a power shovel is a mobile unit. Wheel mounts are merely used for convenience in transporting the power shovel at greater speeds. In view of this situation, it can not be said that such apparatus is an inherent part of the power shovel so as to be exempt from motor vehicle taxation.

In view of the above observations, I am of the opinion that wheel mounts which are used to transport a power shovel constitute a trailer and are subject to the motor vehicle license laws.

Respectfully,

THOMAS J. HERBERT,
Attorney General.