

MOTOR VEHICLES: Rule as to determining capacity of trucks.

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Sec 5280 Laws 31

7-14
July 13, 1933.



Hon. Walter M. Hilbert
Prosecuting Attorney
Lewis County
Monticello, Missouri

Dear Mr. Hilbert:

This is to acknowledge your letter of June 14th,
which is as follows:

"Under the proviso in Sec. 5280, Laws of
1931, page 316 which reads as follows
("PROVIDED, the provision of this act
shall not apply to trucks of one and one-
half ton capacity and less.") what is
the rule by which the capacity of a truck
shall be determined?"

The section that you cite in your letter is the
last section of Article VIII, Chapter 33, Laws of Missouri,
1931, page 304 et seq., which act repealed the same article
and chapter of the 1929 Statutes. This act conferred juris-
diction upon the Public Service Commission to license,
regulate and supervise transportation of persons or property
for hire over the public highways of the State of Missouri.

If you will look at Section 5272, Laws of Missouri,
1931, page 311-13 incl., subdivision "c", you will find that
the annual license fees are therein set out and same distri-
buted according to the tonnage of the truck. In said sub-
division and section this is found:

"* * *, the vehicle shall be rated on the
manufacturer's rated load capacity or the
actual weight carrying capacity of the
vehicle, which capacity shall be determined
by the public service commission at the
time a certificate of convenience and
necessity or interstate permit is issued.
* * *."

Section 5280 has this provision, as quoted in your letter,

"Provided, the provision of this act shall not apply to trucks of one and one-half ton capacity and less."

Therefore, in arriving at what the capacity of a truck shall be, we would state and are of the opinion that the vehicle shall be rated on the manufacturer's rated load capacity or the actual weight carrying capacity of the vehicle. In other words, you may take both rules and determine if the truck exceeds the one and one-half ton capacity. The truck shall not exceed one and one-half ton capacity, both as to the manufacturer's rated load capacity or the actual weight carrying capacity. If the manufacturer's rated load capacity is one and one-half tons or less but the weight carrying capacity of such vehicle is greater, then such truck is not within the exception, and vice versa.

We also call your attention to Section 7788 R. S. 1929, as to the regulations of the weight, which in part reads as follows:

" * * *, and no motor vehicle having a load of over 600 pounds per inch width of tire upon any wheel concentrated upon the surface of the highway * * * * * shall be operated on the highways of this state: Etc. * * *"

In other words, no matter what the ton capacity of the truck is, the weight on the highway shall not be more than 600 pounds per inch width of tire upon any wheel.

Trusting that this answers your inquiry, we are,

Yours very truly,

APPROVED: _____
(Acting) Attorney-General.

James L. HornBostel
Assistant Attorney-General.