

MOTOR VEHICLES: Corporation which is owner and operator
of motor vehicle may be prosecuted for
HIGHWAYS: an overweight vehicle.



May 16, 1952

5-16-52

Honorable John M. Cave
Prosecuting Attorney
Callaway County
Fulton, Missouri

Dear Sir:

This department is in receipt of your request for an official opinion, which reads as follows:

"Your opinion is requested on the following set of facts:

"X Transportation Company, a corporation, employs a driver, Y, who actually operates a motor vehicle upon the highways of this state. Driver Y does not control either the quantity or the manner of loading of the vehicle belonging to X Co. Upon being weighed, the truck is found to be overloaded on an axle or group of axles under the weight regulations of 304.180, RSMo 1949. Under the provisions of Section 304.240, RSMo 1949, may I, as Prosecuting Attorney, file an information against X Trucking Co. for violation of said restrictions, or am I compelled to file the information only against driver Y?"

As stated in your request, Section 304.180, RSMo 1949, provides for certain maximum gross weight of motor-drawn or propelled vehicles operating on the highways of this state. Section 304.240, RSMo 1949, provides as follows:

"Any person, firm, corporation, partnership or association violating any of the provisions of sections 304.170 to 304.240, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a

Honorable John M. Cave

fine of not less than five dollars nor more than five hundred dollars or by imprisonment in a county jail for a term of not exceeding twelve months, or by both such fine and imprisonment."

(Emphasis ours.)

The above section is plain and unambiguous in providing that a corporation may be prosecuted for operating a motor vehicle over the highways of this state the gross weight of which is in excess of the statutory maximum. It is well settled in this state that a corporation may be held liable for the criminal acts of its agents and employees. As the Supreme Court of Missouri, en Banc, said in the case of *State ex inf. McKittrick v. American Ins. Co.*, 346 Mo. 269, 140 S.W. (2d) 36, 1.c. 40:

"Conduct of officers and agents of a corporation, which is criminal under the laws of the State, is both a violation of the criminal law by the individual (and in some instances also by the corporation), for which there may be prosecution by criminal information or indictment * * *"

This is in accord with the general rule as stated in 19 C.J.S., page 1075, as follows:

"A corporation may be held criminally responsible for acts committed by its agents, provided such acts were committed within the scope of the agents' authority or course of their employment. * * *"

To the same effect is 13 Am. Jur., page 1058. See also *State v. Belle Spring Creamery Co.*, 83 Kan. 389, 111 P. 474, in which a corporation was prosecuted for violation of a weight statute.

In view of the above it will be seen that a corporation which owns and operates a truck over the highways of this state, the gross weight of which is in excess of the statutory maximum, may be prosecuted under Section 304.240, RSMo 1949. A prosecution of the corporation only is especially proper when the driver of the vehicle did not have control or knowledge of the quantity or the manner of the loading of the vehicle which is found to be overweight.

Honorable John M. Cave

CONCLUSION

It is therefore the opinion of this department that a corporation which owns and operates a motor vehicle over the highways of this state may be prosecuted under Section 304.240, RSMo 1949, for a misdemeanor when the gross weight of said vehicle is in excess of the maximum weight prescribed by Section 304.180, RSMo 1949.

Respectfully submitted,

ARTHUR M. O'KEEFE
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

AMO'K:ml