

MOTOR VEHICLES:
PICKUP TRUCK:
NOT EMERGENCY VEHICLE:
WHEN:

Privately owned pickup truck used in responding to calls for emergency service by motorists of stalled or disabled vehicles, which truck has only standard equipment put on at factory, without equipment for hoisting or towing vehicles at roadside, is not a "wrecker" or "tow truck" within meaning of Section 304.022, Paragraph 3, Subparagraph 3, RSMo. 1959.

Opinion No. 154-68

May 14, 1968

Honorable Albert F. Turner
Prosecuting Attorney
Wright County
P.O. Box 110
Mountain Grove, Missouri



Dear Mr. Turner:

This office is in receipt of your request for a legal opinion, reading in part as follows:

"We have a question concerning Section 304.022, Paragraph 3, Subparagraph 3. This section has to do with emergency vehicles. We recently had a case in Wright County involving a pickup that did not have any special equipment on it. It said "tow truck" on the side. It was equipped with emergency lights. It was used by a service station while making calls on traffic that might be stalled along the side of the road."

In a supplemental letter to the opinion request, you gave further and more detailed information regarding the matter of inquiry and it reads in part as follows:

"* * * you ask if I inquire if the tow truck is an emergency vehicle within the meaning of the statute you cite above * * * yes, that is my question.

You ask what I mean by emergency lights. The particular vehicle * * * had a small red flashing light on top of the cab of the pickup truck.

The particular situation that arises involves a privately owned pickup truck which is owned and operated part time in rendering services to motorists

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who are stranded on the highway * * *. The vehicle has standard equipment the same as any other pickup truck that is obtained from the factory. The truck has no boom, no tow bar, and no compressor tank in the bed. The vehicle would have a wide wooden bumper for pushing stalled vehicles * * *."

We understand the inquiry of the opinion request to be whether a privately owned pickup truck with standard equipment put on at the factory, with exception of a red flasher light on the cab, is a "wrecker" or "tow truck", within the meaning of Section 304.022, Paragraph 3, Subparagraph 3, RSMo. 1959, providing that certain motor vehicles are emergency vehicles.

Section 304.022, RSMo. 1959, defines the terms "emergency vehicle" and grants exemptions from certain traffic regulations to the driver when the vehicle is being used as an emergency vehicle. Said section reads in part as follows:

"3. An 'emergency vehicle' is a vehicle of any of the following types:

(3) Any privately owned wrecker or tow truck or a vehicle owned and operated by a public utility service corporation while performing emergency service.

"4. (1) The driver of any vehicle referred to in subdivisions (1), (2), (3) of subsection 3 of this section shall not sound the siren thereon or have the front red lights on except when said vehicle is responding to any emergency call or when in pursuit of an actual or suspected law violator or when responding to, but not upon returning from a fire * * *.

(3) The exemptions herein granted to an emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred feet to the front end of such vehicle."

From Paragraph 3, Subparagraph 3, Section 304.022, supra, it appears that an "emergency vehicle" is one of the types of vehicles mentioned in the section, including any privately owned "wrecker" or "tow truck", while performing emergency service. However, the section does not define "wrecker" or "tow truck", and of necessity

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we are required to look elsewhere for a suitable definition of these terms. We do not find any statute or court decision of Missouri defining either of said terms.

The only definition of the terms referred to above we have been able to find is in Webster's Third International Dictionary, and which reads as follows:

"Wrecker (3) an automotive vehicle with hoisting apparatus and mechanical equipment for towing wrecker or disabled automobiles, freeing automobiles stalled in snow or mud, or making minor repairs or adjustments at the roadside -- called also tow-car".

The above quoted definition does not ascribe any unusual or technical meaning to the words "wrecker" or "tow car" and defines them in such plain or ordinary language that any normal person of average intelligence will have no difficulty in grasping their meaning.

There is no indication the lawmakers intended to give the terms "wrecker" or "tow truck" as used in Section 304.022, (sub-paragraph 3, supra.) any unusual or technical meaning, so under provisions of Section 1.090, RSMo. 1959, on construction of statutes requiring words or phrases to be construed in their usual or ordinary sense unless they were intended to be used in a technical sense, said terms are to be construed and understood in their plain or ordinary sense. Since the definition from Webster's quoted above, appears to define the terms therein in plain or ordinary language and without technicalities, it is believed said definition is applicable to the terms "wrecker" and "tow truck" used in Section 304.022 supra.

It will be recalled that Webster's definition of "wrecker" or "tow car" which we have said is applicable to the type of emergency vehicle referred to in Section 304.022 supra., that a "wrecker" or "tow car" is equipped with hoisting apparatus and mechanical equipment for towing wrecked or disabled automobiles.

The pickup truck referred to in the opinion request appears to have only standard equipment such as is placed upon every pickup truck of that particular make and size by the manufacturer. It further appears that the truck has no boom, no tow bar and no air-compressor tank in the bed, and has only a wide wooden bumper for pushing cars.

It also appears the pickup truck, although the words "tow truck" are painted on the side, has none of the hoisting or mechanical equipment to enable its operator to use it to tow stalled or

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disabled automobiles, and it is readily seen that such truck is not a "wrecker" or "tow car" as defined by Webster, and that it is not a "wrecker" or "tow truck" within the meaning of Section 304.022, Paragraph 3, Subparagraph 3, RSMo. 1959.

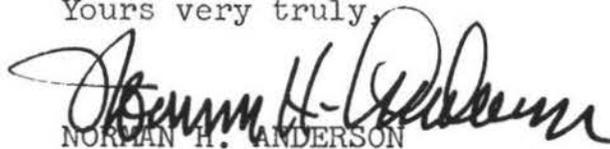
We are enclosing Opinion No. 290 written under date of May 5, 1966, to Edmund I. Hockaday concerning flashing lights.

CONCLUSION

Therefore, it is the opinion of this office that a privately owned pickup truck, used in responding to calls for emergency service by motorists of stalled or disabled vehicles, which truck has only standard equipment put on at the factory, without equipment for hoisting or towing stalled or disabled vehicles at roadside, is not a "wrecker" or "tow truck" within the meaning of Section 304.022, Paragraph 3, Subparagraph 3, RSMo. 1959.

This opinion, which I hereby approve, was prepared by my assistant, Paul N. Chitwood.

Yours very truly,


NORMAN H. ANDERSON
Attorney General

Enclosure: Opinion No. 290
Hockaday
5/5/66