

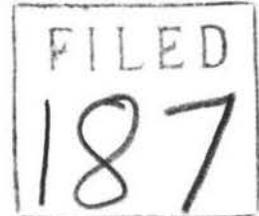
MOTOR VEHICLES:
TRUCKS AND TRACTORS:
TRACTORS NOT REQUIRED TO
HAVE MUD FLAPS:

A tractor used for pulling a trailer or semi-trailer is not when being driven without the trailer or semi-trailer a truck and, therefore, does not come within the purview of Section 304.265, Mo. Supp., 1967, and is not required to have mud flaps for its rear wheels.

OPINION NO. 187

May 23, 1968

Honorable Kenneth J. Rothman
State Representative - 36th District
Missouri House of Representatives
7730 Carondelet Avenue, Suite 203
Clayton, Missouri 63105



Dear Representative Rothman:

On February 6, 1968, you requested an opinion from this office as follows:

"A sentence in Section 1 of RSMo 304.265 reads as follows: 'It shall be unlawful for any person to operate upon the public highways of this state a truck or truck-tractor trailer without rear fenders, which is not equipped with mud flaps for the rear wheels.'

"The question which I pose to you is whether or not this sentence would require that mud flaps be placed on the tractor being operated by itself without an accompanying trailer."

Section 304.265, Mo. Supp. 1967, provides:

"1. It shall be unlawful for any person to operate upon the public highways of this state a truck or truck-tractor trailer, without rear fenders, which is not equipped with mud flaps for the rear wheels. If mud flaps are used, they shall be wide enough to cover the full tread width of the tire or tires being protected; shall be so installed that they extend from the underside of the vehicle body in a vertical plane behind the rear wheels to within eight inches of the ground; and shall be constructed of a rigid material or a flexible material which is of a sufficiently rigid character to provide adequate protection when the vehicle

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is in motion. No provisions of this section shall apply to a motor vehicle in transit and in process of delivery equipped with temporary mud flaps.

"2. Any person who violates this section is guilty of a misdemeanor and, upon conviction, shall be punished as provided by law."

Section 301.010, RSMo, as used in Chapter 301 and Sections 304.010 and 304.040 and 304.120 to 304.570 the following terms are defined as follows:

"(26) 'Tractor', any motor vehicle, designed primarily for agricultural use or used as a traveling power plant or for drawing other vehicles or farm or road building implements and having no provision for carrying loads independently;

"(27) 'Trailer', any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by self-propelled vehicle, except those running exclusively on tracks, including a semi-trailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle;"

Under the above statute these terms apply to Section 304.265, supra. It is to be noted that the term "tractor" and "trailer" are defined, but there is no definition of the term "truck-tractor trailer" found in any of the statutes governing this matter. It is our duty to determine what the legislature meant by the use of the term "truck-tractor trailer" as used in this statute, whether it is to be considered as two vehicles or as one vehicle.

In determining the meaning and application of a statute, we should try to ascertain the legislative intent for the word used if possible and put upon such language the plain and rational meaning and promote the object. *State ex rel Curators of the University of Missouri v. Neill*, 397 S. W. 2d 666.

Failure to comply with the terms of Section 304.265 is considered a misdemeanor. It is a cardinal rule of construction that a criminal statute should be strictly construed against the state and in favor of the accused. *State vs. Katz Drug Company*, 352 S. W. 2d 678.

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Although the word "truck" is not defined by statute, it is common knowledge that it is a vehicle equipped and used for hauling freight. In Black's Law Dictionary, Deluxe Fourth Edition, page 1679, the term "truck" is defined as:

"Wheeled vehicle for carrying heavy weight;
an automobile for transporting heavy loads.
Paltani v. Sentinel Life Ins. Co., 121 Neb.
447, 237 N. W. 392."

Section 304.265, supra, makes it unlawful to operate upon the public highways of this state a "truck" or "truck-tractor trailer" without rear fenders which is not equipped with mud flaps for the rear wheels. It is further provided that the mud flaps shall be installed so that they extend from the "underside of the vehicle body in a vertical plane behind the rear wheels". A "tractor" as defined in Section 301.010, supra, is a motor vehicle having no provisions for carrying loads independently. In other words, it is a motor vehicle without "body" for carrying loads independently.

In considering that statute as a whole, and construing it strictly against the state since it is a criminal statute, we believe that the legislature intended that the words "truck-tractor trailer" were to be considered as one vehicle and that the mud flaps should be installed on the rear wheels of the trailer part of such vehicles and not on the rear wheels of the tractor part of the vehicle.

CONCLUSION

It is the opinion of this office that a tractor used for pulling a trailer or semi-trailer is not when being driven without the trailer or semi-trailer a truck and, therefore, does not come within the purview of Section 304.265, Mo. Supp. 1967, and is not required to have mud flaps for its rear wheels.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Moody Mansur.

Yours very truly,


NORMAN H. ANDERSON
Attorney General