

MOTOR VEHICLES:

Municipalities have no authority to establish vehicular weight or size regulations imposing greater restrictions than state law.

OPINION NO. 61

March 16, 1971

Honorable Alden S. Lance  
Prosecuting Attorney  
Andrew County Court House  
415 West Main Street  
Savannah, Missouri 64485



Dear Mr. Lance:

This opinion is in response to your request in which you ask the following question:

"Do the city authorities in cities, towns and municipalities having less than 75,000 population, have the authority to establish by ordinance regulations setting weight, height, width and length limitations lower than the general limitations established by the State Legislature, in the sections of law cited, particularly Section 304.180?"

Section 304.170, RSMo 1969, provides for the regulation as to the width, height, and length of motor vehicles with certain exceptions; and Section 304.180, RSMo 1969, contains regulations as to weight of vehicles. Both of these sections are of general application and apply to vehicles operated upon the highways of this state.

Section 301.010, RSMo 1969, provides in part:

"As used in chapter 301 and sections 304.010 to 304.040 and 304.120 to 304.570, RSMo, the following terms mean:

\* \* \*

"(9) 'Highway,' any public thoroughfare for vehicles, including state

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roads, county roads and public streets,  
avenues, boulevards, parkways or alleys  
in any municipality: ..."

Additionally, Section 304.190, RSMo 1969, which applies to motor vehicles operated exclusively within the corporate limits of cities containing seventy-five thousand inhabitants or more or within two miles of the corporate limits of the city or within the commercial zone of the city, provides that such vehicles shall not exceed certain size and weight limitations.

The general application of Sections 304.170 and 304.180 as opposed to the specific application of Section 304.190 was noted by the Supreme Court in State v. Chadeayne, 323 S.W.2d 680 (Mo. en banc 1959).

It is, of course, recognized that the highways of the state are subject to reasonable regulation and supervision by the state in the exercise of its police power and that this police power may be delegated by the state. State v. City of Mexico, 197 S.W.2d 301 (Mo. 1946).

Our legislature has provided by Section 304.120 RSMo 1969, that the municipalities may, by ordinance, establish certain regulations relating to motor vehicles. Subsection 2(4) of that section provides that municipalities may limit the use of certain designated streets and boulevards to passenger vehicles. However, nowhere in that section is there any authority for municipalities to impose lower limits than those provided in the sections noted above.

In this respect the St. Louis Court of Appeals in City of St. Louis v. Stenson, 333 S.W.2d 529 (1960), in considering the authority of the City of St. Louis to impose such greater restrictions, stated at l.c. 534:

"Absent any statutory or ordinance regulation, commercial vehicles and combinations of same of any weight, height or length would be permitted to use the highways of the City of St. Louis. The State of Missouri has seen fit through §304.170 to prohibit the operation on its highways of a combination of vehicles that exceed 45 feet in length. The State of Missouri has spoken and any attempt by ordinance to lower that limit would be in conflict with §304.170.

\* \* \*

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"It is the contention of the City of St. Louis that in addition to the power conferred to regulate traffic as specifically designated in said subdivision 2 of §304.120, this statute confers general authority to pass ordinances regulating traffic within the City of St. Louis. Defendant contends the first part of subdivision 2 of said section is general in terms and that the seven specifically designated types of regulations following the first part must be construed as a limitation upon the generality of the language contained in the first part of said subdivision 2 of §304.120. We need not resolve this conflict in contentions because subdivision 3 of §304.120 declares invalid any ordinance 'which contains provisions contrary to or in conflict with' Chapter 304 RSMO 1949, V.A.M.S. Also, it should be pointed out that §304.120 does not by specific direction authorize a municipality to regulate the length of commercial vehicles operating within its corporate limits."

The above holding was noted and restated by the St. Louis Court of Appeals in City of Richmond Heights v. Shackelford, 446 S.W.2d 179 (1969). The Court however there distinguished the City of St. Louis case and held that a city has a full grant of power to forbid all commercial vehicles but may choose to exercise only part of such power by a municipal ordinance prohibiting from certain streets all commercial vehicles save those used in making deliveries to certain places within such streets.

By comparison, the legislature has provided that municipalities may, within certain limitations, issue trip permits for vehicles exceeding the limitations on width, length, height, and weight specified in the above sections for definite periods for the use of the streets by such vehicles within the limits of such municipalities. Section 304.200, RSMO 1969.

The conclusion that we reach in answer to your question is that the legislature has provided for certain weight and size limitations on vehicles used on the highways of this state as defined and has authorized municipalities to limit

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the use of certain designated streets and boulevards to passenger vehicles but has not authorized the municipalities to establish restrictions greater than those established by the state statutes.

CONCLUSION

It is the opinion of this office that municipalities have no authority to establish vehicular weight or size regulations imposing greater restrictions than state law.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John C. Klaffenbach.

Very truly yours,

A handwritten signature in black ink, appearing to read "John C. Danforth". The signature is written in a cursive, flowing style with a large initial "J".

JOHN C. DANFORTH  
Attorney General