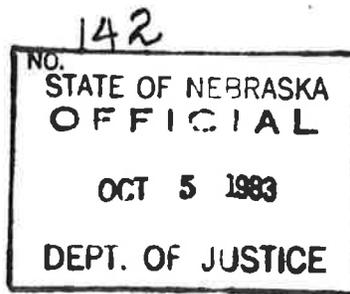


DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509

October 3, 1983



PAUL L. DOUGLAS
Attorney General
GERALD S. VITAMVAS
Deputy Attorney General
JOHN R. THOMPSON
Deputy Attorney General

SUBJECT: Registration of Motor Vehicles
(Farm Trucks)

REQUESTED BY: Avery L. Gurnsey,
Keya Paha County Attorney

OPINION BY: Paul L. Douglas, Attorney General
Henry M. Grether, III, Assistant Attorney General

QUESTION: 1. May the Department of Motor Vehicles of the State of Nebraska issue tonnage stickers on various gross vehicle weights for farm trucks in excess of five tons gross vehicle weight and less than fifteen tons gross vehicle weight?

CONCLUSION: Yes.

QUESTION: 2. Is a pickup truck, designed to pull a so-called gooseneck trailer, where the connection device of the trailer is mounted in the bed of a pickup box, a truck-tractor since it is in fact pulling a semitrailer; or is it a truck because due to the design, the truck is able to carry a small load merely incidental to its primary use?

CONCLUSION: A pickup truck, designed to pull a gooseneck trailer, is a truck-tractor.

Assistants

Bernard L. Packett
Mel Kammerlohr
Harold I. Mosher
Ralph H. Gilan
Terry R. Schaaf
Marilyn B. Hutchinson

Patrick T. O'Brien
J. Kirk Brown
Royce N. Harper
Sharon M. Lindgren
Ruth Anne E. Galter
G. Roderic Anderson

Dale A. Comer
Martel J. Bundy
Mark D. Starr
Dale D. Brodkey
Frank J. Hutfless
Linda L. Willard

John D. Boehm
Henry M. Grether III
Michaela M. White
Calvin D. Hansen

1. As you will note, Neb.Rev.Stat. §60-330 (Supp. 1983) provides as follows:

...[F]or the registration of farm trucks, except for trucks or combinations of trucks or truck-tractors and trailers or semitrailers having a gross vehicle weight of fifteen tons or more, the registration fee shall be eighteen dollars for up to and including five tons gross vehicle weight, and in excess of five tons the fee shall be twenty-two dollars.

Therefore, the Department of Motor Vehicles may issue a registration for a farm truck for a fee of twenty-two dollars, when said truck's gross vehicle weight is in excess of five tons but less than fifteen tons.

The question then arises whether the Department of Motor Vehicles is required to issue tonnage stickers on various gross vehicle weights of farm trucks in excess of five tons, up to and including twelve tons; and a tonnage sticker on gross vehicle weights in excess of twelve tons but less than fifteen tons.

Neb.Rev.Stat. §60-403.06 to .07 (Reissue 1978) clearly states that a class C or a class CC operator's license, is required for operator's of trucks registered for more than twenty-four thousand pounds (12 tons) gross vehicle weight and carrying cargo. In conjunction with this statute, the Department of Motor Vehicles may, at its discretion, issue tonnage stickers on the various gross vehicle weights in excess of five tons, up to and including twelve tons, as well as a tonnage sticker for gross vehicle weights in excess of twelve tons but less than fifteen tons. This would eliminate the need for truck operators whose truck's are registered for twelve tons gross vehicle weight or less from obtaining a class C or class CC license. However, there is no statutory language mandating that the Department must issue said tonnage stickers.

2. The Nebraska statutes provide the following definitions:

...(3) Trucks shall include motor vehicles equipped or used for the transportation of property;

...(7) Truck-tractor shall mean every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle and load being drawn."

Neb.Rev.Stat. §60-301(3) and (7) (Supp. 1983).

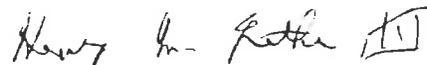
The statutes suggest that a pickup truck with a box in its bed could be classified as a truck if it is able to carry a small load merely incidental to its primary purpose. However, the Nebraska Supreme Court clarified the meaning of similar statutes in a recent case.

Although, the previous case is distinguishable on its facts from the current one, the Nebraska Supreme Court provided a clear explanation on how to analyze the question at hand. The Court held that where the design and primary use of the vehicle is to draw other vehicles, any load carried by the truck-tractor, other than part of the weight of a vehicle and load so drawn, was merely incidental to its primary use. State v. Speicher, 203 Neb. 535, 279 N.W.2d 162 (1977).

Following the reasoning in Speicher, a pickup truck designed to pull a gooseneck trailer, where the mounting device is mounted in the bed of the pickup box, will be classified as a truck-tractor, since it is primarily designed to draw other vehicles. Any loads which it carries without the use of another vehicle will only be incidental to its primary use and design.

Very truly yours,

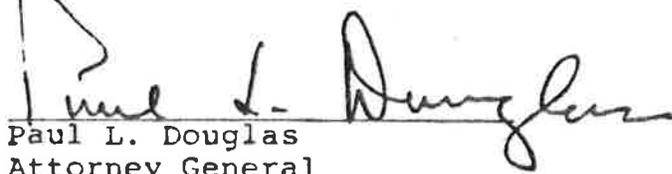
PAUL L. DOUGLAS
Attorney General



Henry M. Grether, III
Assistant Attorney General

HMG:laj

APPROVED BY:



Paul L. Douglas
Attorney General