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# OFFICE OF THE ATTORNEY GENERAL

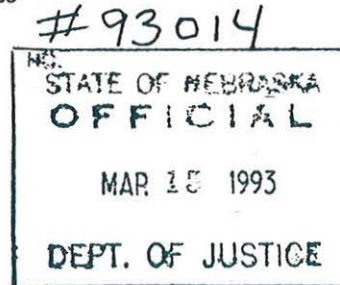
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DATE: March 9, 1993

SUBJECT: Permit for hauling baled livestock forage.

REQUESTED BY: Senator Merton L. Dierks  
Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General  
John E. Brown, Assistant Attorney General

You have requested our opinion regarding whether amended LB 153 would conflict with Neb. Rev. Stat. § 39-6,181 (1988). For the reasons stated below, we believe that it does not. You further ask that if LB 153 does conflict with § 39-6,181, can the conflict be removed if LB 153 is not amended as proposed? Because we see no conflict between LB 153 and § 39-6,181, we do not consider the second question.

LB 153, as amended, would allow the Nebraska Department of Roads to issue permits for the movement of vehicles and loads up to 15 feet in width, when such vehicles were picking up, delivering, or returning unloaded from, the delivery of baled livestock forage. The permits in question would cost \$20.00, and would be valid for a period of one calendar year. Baled livestock forage is a load which can be dismantled or reduced in size without great difficulty, and therefore, a permit for hauling livestock forage could not issue under § 39-6,181, which provides, in part:

No permit shall be issued under subdivisions (a) or (b) of this subsection for a vehicle carrying a load unless such vehicle is loaded with an object which exceeds the size or weight limitations and which object cannot be dismantled or reduced in size or weight without great difficulty and which of necessity must be moved over the highways to reach its intended destination.

The permit contemplated by amended LB 153 is not "issued under subdivisions (a) or (b)," of § 39-6,181, but instead is

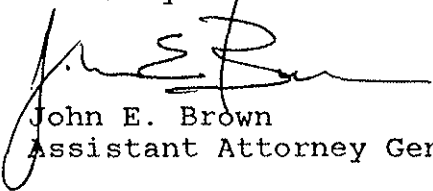
Senator Merton L. Dierks  
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issued under Neb. Rev. Stat. § 39-6,100, as amended. The overwidth permits for divisible loads contemplated by amended LB 153 are not unlike the overweight permits for divisible loads currently issued by the Nebraska Department of Roads. The Department of Roads currently issues permits for overweight "divisible loads", that would be in conflict with the above-quoted portion of § 39-6,181, if such permits were issued pursuant to subdivision (a) or (b) of § 39-6,181. For example, overweight permits for "trucks with an enclosed body and compacting mechanism," garbage trucks, are issued by the Department pursuant to Neb. Rev. Stat. § 39-6,185(3) (1988). Presumably, a garbage truck carries a load that can be dismantled or reduced in size without great difficulty. A permit for an overweight garbage truck would therefore conflict with the above-quoted portion of § 39-6,181 if such permit were issued under § 39-6,181. Permits for overweight garbage trucks, however, are issued under § 39-6,185(3) and Rule 008.02, Title 408, Chapter 1, of the Department of Roads Rules and Regulations. The permit authority set out in amended LB 153 is no different from the permit authority provided by § 39-6,185(3), neither of which are in conflict with § 39-6,181.

You have not asked about the propriety of issuing a permit for the movement of vehicles 15 feet in width on Nebraska highways which have, in many cases, travel lanes of only 12 feet in width. However, in view of the obvious danger to drivers of such vehicles and to others using the highways, we would comment that some provision should be added to the proposed legislation to protect against the potential loss of life and property that could, in all probability, follow the unrestricted issuance of such permits.

Sincerely,

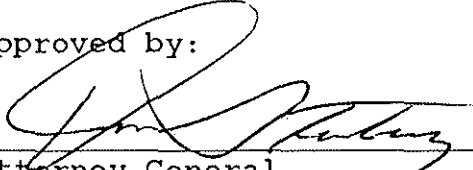
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John E. Brown  
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cc: Patrick O'Donnell  
Clerk of Legislature

Approved by:



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Attorney General