

N.D.A.G. Letter to Gibbens (April 22, 1987)

April 22, 1987

Ms. Lisa Beckstrom Gibbens
Towner County State's Attorney
P.O. Box 601
Cando, ND 58324

Dear Ms. Gibbens:

Thank you for your letter dated April 14, 1987.

You have inquired as to the authority of officers of the North Dakota Highway Patrol to conduct weight limit checks on trucks being operated on the county road system. You have also inquired as to whether or not any Attorney General's opinions exist concerning the authority of highway patrolmen to enforce laws on county roads in instances other than hot pursuit.

I have enclosed with this letter an Attorney General's opinion dated June 14, 1971, concerning the authority of the North Dakota Highway Patrol to enforce the laws on roads and highways in the state and federal park system. No other Attorney General's opinions have been issued to my knowledge which would directly bear upon the authority of North Dakota Highway Patrol officers to enforce laws on the county road system.

Although no Attorney General's opinions pertaining to this issue exist, other than the opinion noted above, N.D.C.C. § 39-03-09(1) sets forth the general duties of the Highway Patrol to enforce all laws regulating the operation of vehicles or the use of the highways and the use or presence of alcoholic beverages in motor vehicles. N.D.C.C. § 39-01-01(22) defines "highway" as meaning:

22. "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel and of every way privately maintained within a mobile home park, trailer park, or campground containing five or more lots for occupancy by mobile homes, travel trailers, or tents when any part thereof is open for purposes of vehicular travel.

Based upon this broad grant of authority, it appears that a North Dakota Highway Patrolman does have authority, as a peace officer, to enforce laws in accordance with N.D.C.C. § 39-03-09 on highways other than those exclusively determined to be within the state or federal highway system.

You have specifically inquired as to the authority of the North Dakota Highway Patrol to

conduct weight limit checks on trucks operating on the county road system. N.D.C.C. § 39-12-07 specifically authorizes a member of the State Highway Patrol to weigh a vehicle and take what action may be necessary to bring the vehicle within the weight restrictions of law if that officer has reason to believe that the weight of the vehicle and the load carried thereon is unlawful. This authority granted to the state highway patrol would permit the officers to conduct weight limit checks on trucks operating on a county road system.

I trust that this letter has adequately responded to your inquiry.

Sincerely,

Nicholas J. Spaeth

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Enclosure

cc: Col. Brian Berg