

1983 WL 181880 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 11, 1983

***1 SUBJECT: Tandem Axle Weights on South Carolina's Highways**

For the purposes of [23 USC § 127](#), the amount of 'tandem axle weight' allowable in South Carolina on July 1, 1956 was 35,200 pounds.

Paul W. Cobb
Chief Highway Commissioner
South Carolina Department of Highways and Public Transportation

QUESTION:

Where S. C. Code of Laws, § 46-664 (1952) (in effect in 1956), allowed for a weight limit of 32,000 pounds on tandem axles, and [23 USC § 127](#) (as amended by Pub. L. 93-643, § 106, Jan. 4, 1975, 88 Stat. 2283) allows for a continuation of the weight limits in existence in the States in 1956, did the ten percent variance in vehicle weight provided for in S. C. Code of Laws, § 46-666 (1952), allow for a total permissible weight of 35,200 pounds on vehicles with tandem axles?

OPINION:

[23 USC § 127](#) directs that federal funds shall not be appropriated to any state allowing vehicles to travel upon the interstate system with weights in excess of certain specified maximums contained in the federal statute or the corresponding weights existing in the various states on July 1, 1956, whichever is greater. Thus, if state law, as of July 1, 1956, authorized variations from the stated maximum weights, such variations are grandfathered by the federal statute. [Bunch v. Cobb](#), 237 S.C. 445, 257 S.E.2d 225 (1979).

The federal law ([§ 127](#)) provides that the maximum permissible tandem axle weight may not be in excess of thirty-four thousand (34,000) pounds, including all enforcement tolerances. S. C. Code of Laws, § 56-5-4140(a) (1976, as amended) provides that '... the gross weight imposed upon the highway by any group of two axles shall not exceed 35,200 pounds.'

Therefore, the question becomes or of whether vehicles with tandem axle weights of up to 35,200 pounds could have been lawfully operated in South Carolina on July 1, 1956. On that date the gross weight limitations applicable on the Interstate in South Carolina were found in S. C. Code of Laws, § 46-664 (1952) (current § 56-5-4140). By letter to the Federal Highway Administration of September 4, 1975, the South Carolina State Highway Department (now South Carolina Department of Highways and Public Transportation) defined 'tandem axles' as being 'any group of axles having less than 7 feet between the extremes of the group of axles,' and noted that the South Carolina law (§ 46-664) in effect on July 1, 1956 imposed a weight limitation of 32,000 pounds on such axles. See letter of Marvin Jones to David E. Wells, FHA, dated September 4, 1975. The Federal Highway Administration, U. S. Department of Transportation, accepts this as a proper definition. See letter of B. G. Cloyd to Paul W. Cobb, dated March 23, 1983 (page 2).

Additionally, S. C. Code of Laws, § 46-666 (1952) (current § 56-5-4160), also in effect on July 1, 1956, provided that for the purposes of enforcement of § 46-664, '... the gross weight of vehicles ... shall be deemed to be not closer than ten percent of the true gross weight.' Therefore, a ten percent variance in measuring vehicle weights was allowed in this State on July 1, 1956.

*2 Ten percent added to 32,000 gives a total of 35,200. This figure represents the number of pounds allowed for gross weight of any group of two axles in present § 56-5-4140(a). It is and has been the position of the Department that the 32,000 pound limit provided for in § 46-664 plus the ten percent variance provided for in § 46-666, represents the amount of 'tandem axles' weight allowable in South Carolina on July 1, 1956. See letter of Marvin Jones, supra. Until recently this was also the position of the U. S. Department of Transportation. See letter of David E. Wells to Marvin C. Jones, dated September 22, 1975.

In South Carolina, it is an established rule of statutory interpretation that statutes will be held to their 'plain meaning.' Brewere v. Brewer, 242 S.C. 9, 129 S.E.2d 736 (1963); Jones v. South Carolina State Highway Department, 247 S.C. 137, 146 S.E.2d 166 (1966). The South Carolina Supreme Court has stated this rules as follows:

Modern authorities generally favor the interpretation of statutes according to the natural and obvious signification of the wording, without resort to subtle and refined construction for the purpose either of limiting or extending their operation. Greenville Baseball, Inc. v. Bearden, 200 S. C. 363, 20 S.E.2d 813 (1942).

Based on this established rule, it is the opinion of this office that the ten percent variance allowed for in § 46-666 should be interpreted as having been meant to apply to the gross weight of axle groups as well as the gross total weight of a vehicle. This is because of § 46-666's specific language that the ten percent variance is to be used ' . . . for the purpose of enforcement of § 46-664 . . .,' which statute in turn specifically dealt with allowable gross weights of groups of axles on vehicles. Therefore, the logical interpretation, and the most natural, is that the variance should and was meant to apply to these groups of axles.

Support for this interpretation can also be found from the fact that this tolerance has been granted since 1949, Act No. 281, 46 Acts and Joint Resolutions 179 (1949), has been the enforcement procedure followed by the South Carolina Highway Patrol since that time, and has, until recently, been accepted not just by this State but by the Federal Government as well. See letter of David E. Wells, supra. A further rule of judicial interpretation provides that a consistent mode of applying a statute by the responsible governing agencies will be given considerable judicial deference in the construction of ambiguous statutes. Weeks v. Friday, 225 S.C. 447, 452, 179 S.E.2d 909 (1971). Therefore, based on the past actions of both the South Carolina Department of Highways and Public Transportation and the U. S. Department of Transportation, this long-standing interpretation should prevail.

Bristow Marchant
Staff Attorney

1983 WL 181880 (S.C.A.G.)

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.