



**THE ATTORNEY GENERAL  
OF TEXAS**

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December 4, 1963

Col. Homer Garrison, Jr.  
Director  
Texas Department of Public  
Safety  
Box 4087, North Austin Station  
Austin, Texas

Opinion No. C-191

Re: Whether a motor vehicle transporting oil field equipment from one lease to another lease, wherein a public highway is crossed at right angles is operating over a public highway and related question.

Dear Col. Garrison:

In your recent letter you requested an opinion of this office on the following questions:

"(1) Is a motor vehicle transporting oil field equipment from one lease to another lease wherein a public highway is crossed at right angles considered to be operating over a public highway?"

"(2) In view of the descriptive phrase 'irrespective of whether in the course of such transportation a highway between two (2) or more incorporated cities, towns or villages is traversed' does House Bill #31 seek to regulate as a motor carrier or a specialized motor carrier a motor vehicle which crosses a highway at right angles to and from private property while transporting property for hire?"

House Bill No. 31, Acts 58th Leg., 1963, ch. 359, p. 929 (codified as 911b Sec. 1c) provides in part as follows:

"Sec. 1c. The terms 'Motor Carrier' and 'Specialized Motor Carrier,' as used in Sec. 1 of this Act, shall apply to and include all for hire transportation of oil field equipment, as defined in subdivision (1) of Section 1 of this Act, over the public highways of this State outside the corporate limits of cities or towns, irrespective of whether in the course of such transportation a highway between two (2) or more

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incorporated cities, towns or villages is traversed."

We can find no Texas cases defining the term "over the public highways" nor can we find any cases in Texas defining the word "over." However, in Illinois Central Railway Company v. City of Chicago, 141 Ill. 586 (1892), 30 N.E. 1044, the Court said at page 1046:

". . .The two words 'over' and 'across' may be used interchangeably, and as having the same meaning. Webster thus defines the word 'across:' 'From side to side; athwart; crosswise; quite over.' He defines the word 'over' as follows: 'Above, or higher than, in place or position, with the idea of covering; across; from side to side of; upon the surface of.' . . ."

Also in White v. Bevier Coal Co., 364 Mo. 313 (1953), 261 S.W.2d 81, 84, the Court used the following language:

". . .Webster's New International Dictionary, 2d Edit., tells us that the word 'over' indicates 'passage either above the substance or thing, or on the surface of it, and beyond; specif.: across; from one side to the other of; to or at a place beyond;\* \* \*,' and the word 'across' means 'From one side to the opposite side of.' . . ."

Article 911b, Sec. 1(d), Vernon's Civil Statutes, provides as follows:

"The term 'public highway' means every street, road or highway in this State."

Putting the definition of "over" with the term "public highway" as defined by the Act, we must conclude that a motor vehicle transporting oil field equipment from one lease to another lease, where a public highway is crossed at right-angles, would be considered as operating over a public highway.

We point out that had the Legislature desired to exempt such travel it could have so provided, as it did in Article 6675a-2, Vernon's Civil Statutes which provides:

". . .Provided, that where a public highway

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separates lands under the dominion or control of the owner, the operation of such a motor vehicle by such owner, his agent or employee, across such highway shall not constitute a use of such motor vehicle upon a public highway of this State."

Inasmuch as no such provision appears in House Bill No. 31, we believe that the Legislature intended none.

In answer to your second question, it is the opinion of this office that the Legislature intended to regulate all transportation of oil field equipment for compensation or hire except that specifically exempted by paragraphs 2 and 3, Sec. 1c of Article 911b, Vernon's Civil Statutes, which provide as follows:

"Sec. 1c . . .

"The provisions of this Section 1c shall not apply to or include vehicles used exclusively in the stringing of pipe for pipelines, nor shall this Section 1c apply to or include the transportation of water, drilling mud, petroleum and petroleum products in bulk, in tank trucks, when such substances are used in connection with the servicing of oil and gas wells, unless in the course of such transportation a highway between two (2) or more incorporated cities, towns or villages is traversed.

"Nothing in this Section 1c shall in anywise repeal, alter, amend or affect any of the provisions of Chapter 290, Acts, Reg. Ses. Forty-seventh Legislature (being Sections 1a and 1b of this Act and now codified as Sections 1a and 1b of Article 911b, Vernon's Texas Civil Statutes)."

It is, therefore, our opinion that Article 911b, Section 1c (House Bill No. 31) does seek to regulate as a motor carrier or specialized motor carrier any motor vehicle which crosses a highway at right angles to and from private property transporting property for compensation or hire provided that the transportation is of oil field equipment and is not covered by the exemptions set out in paragraphs 2 and 3 of Section 1c, Article 911b, Vernon's Civil Statutes.

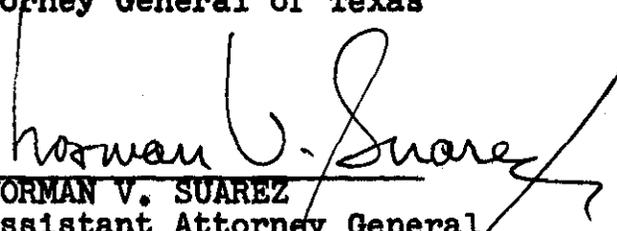
SUMMARY

1. A motor vehicle transporting oil field equipment from one lease to another lease when a public highway is crossed at right-angles is considered to be operating "over a public highway."

2. Transportation of oil field equipment for hire by a motor carrier or specialized motor carrier which crosses a public highway at right-angles to and from private property falls within the definition of the term "motor carrier" and "specialized motor carrier" and the operator of such equipment would require authority from the Railroad Commission unless exempt under the provisions of Article 911b, Vernon's Civil Statutes.

Very truly yours,

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By   
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APPROVED:  
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