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OPINION COMMITTEE

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March 3, 2011

RQ-0949-BA

Opinion Committee Chairperson
Attn: Opinion Committee
P. O. Box 12548
Austin, Texas 78711-2548

REQUEST FOR
ATTORNEY'S GENERAL'S OPINION

FACTS:

The State of Texas requires motor vehicles to have a muffler. Recently, traffic offenders (those without mufflers on their vehicles) have appeared at trials for the offense of having no mufflers and presented to the various Courts a section of the Texas Traffic Code that they purport creates a diesel turbine engine exception to the requirement that all motor vehicles have a muffler.

ISSUE:

Whether there is an exception created as to diesel turbine engines in the Texas Traffic Code to the requirement that all motor vehicles have a muffler?

ARGUMENT AND AUTHORITIES

Texas Traffic Code Section 547.604 states in pertinent part:

“ A motor vehicle shall be equipped with a muffler in good working condition that continually operates to prevent excessive or unusual noise.”

This section has no exception to this requirement.

The Texas Traffic Code Section 541.203 (3) states in pertinent part,

“ Muffler means a device that reduces noise using a mechanical design, including a series of chambers or baffle plates, to receive exhaust gas from an internal combustion engine; or turbine wheels to receive exhaust gas from a diesel engine.”

This definition of muffler is included in a subchapter or subtitle that addresses vehicles, rail transportation, and equipment. Section 541.203 includes a recitation at the beginning of the section that limits the above mentioned definition to the subtitle (which does not include the offense of requiring a muffler on a motor vehicle). When the entire subchapter or subtitle is read altogether it is apparent that the above definition of muffler applies to equipment and does not create a diesel turbine engine exception to the requirement that motor vehicles have a muffler.

SUMMARY

There is no diesel turbine engine exception to the requirement that motor vehicles have a muffler for noise reduction.

Very truly yours,



Phil Garrett