

MAINE STATE LEGISLATURE

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December 9, 1963

Captain Ralph E. Staples

State Police

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Interpretation of chapter 22, section 111-A

FACTS:

Problems have arisen concerning proper interpretation of section 111-A of the motor vehicle laws relating to load weights on vehicles.

It is not possible to state the various factual situations which might arise.

QUESTION NO. 1:

How is the permissible maximum weight of vehicles determined under section 111-A?

ANSWER NO. 1:

See opinion for answer.

OPINION NO. 1:

"Sec. 111-A. Weight tolerance for firewood, pulpwood, logs and bolts. The operation on the highways of any vehicle loaded entirely with firewood, pulpwood, logs or bolts or dump trucks, tractor dump trucks or transit-mix concrete trucks carrying highway construction materials shall not be deemed to be in violation of any of the provisions of sections 19, 36, 109, 110 and 111 relating to weights of vehicles, weights of loads, tonnages or overloads if the gross weight of such vehicle and its load does not exceed 110% of the maximum gross weight for which such vehicle is then registered nor 110% of the maximum gross weight permitted for such vehicle by section 109, and if the weight thereof imparted to any road surface by an axle or axles does not exceed 110% of the maximum axle weight permitted therefor by section 109; provided that no vehicle loaded as aforesaid shall be deemed in violation of the above said sections if, as to each axle, the weight imparted to any road surface is not greater

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than the combined total of 600 pounds per inch width tire, manufacturer's rating, of all tires attached to such axle and provided further that the maximum gross vehicle weight shall not exceed the limits and tolerances established in this chapter."

The whole matter of vehicle weights is written in a confusing manner. It is the direct result of piece meal amendments. It needs a complete revision and some coherent wording. In spite of this confusing wording it is possible to see the clear thread of legislative intent running through the maze.

By section 111-A the legislature has said that specified vehicles hauling specified materials shall not be deemed in violation of named sections if the gross weight and load do not exceed -

- (1) A 10% tolerance over and above the registered maximum gross weight or,
- (2) A 10% tolerance over and above the maximum gross weight permitted by section 109 and if,
- (3) The weight imparted to the road by the axles do not exceed a 10% tolerance of the weights permitted therefor by section 109.

The above possibilities are then limited and conditioned upon there being no violation if "as to each axle, the weight imparted to any road surface is not greater than the combined total of 600 pounds per inch width tire, manufacturer's rating of all tires attached to such axle." (Underlining ours).

It is important to note the underlined words above. The proviso relates to the weight imparted to the road surface on any one axle, not a group of axles. When read in this light the meaning becomes clear.

Now another limitation and condition is added, namely, "the maximum gross vehicle weight shall not exceed the limits and tolerances established in this chapter."

This, then, limits the weight to the maximums plus tolerances set forth in various sections such as 36 and the first paragraph of 109. In other words, no matter what limit may be possible by axle weight or the 600 pounds per inch width tire, the total over-all weight cannot be more than the maximum over-all weight permissible for the particular vehicle.

All this results in the conclusion that under section 111-A specified vehicles hauling specified materials are allowed a 10% tolerance over and above the lesser or smaller of:

- (1) Maximum registered gross weight, or
- (2) Maximum gross weight permitted by section 109, or
- (3) Maximum axle weights permitted by section 109, or
- (4) 600 pounds per inch width tire, manufacturer's rating on a single axle.

The above, however, shall never exceed the maximum weight allowed for the particular vehicle.

QUESTION NO. 2:

When a truck is weighed and found to have a load in excess of the 110% permitted by section 111-A, should the charge of violation be based on the maximum allowed or on 110% of the maximum?

ANSWER:

On the maximum allowed by the statute.

OPINION NO. 2:

Section 111-A is very carefully worded to say, "The operation . . . shall not be deemed to be in violation of any of the provisions of, etc.," and " . . . no vehicle loaded as aforesaid shall be deemed in violation of the above sections etc." (Underlining ours). This wording means what it says. In a few words the legislature has said "We are allowing you a 10% tolerance under certain conditions." It is not to be construed as extending or granting additional weight loads.

This is borne out by the words used at the end of the sentence - "limits and tolerances." The legislature would not have used "tolerances" if it had not considered the 10% a "tolerance."

Hence, being only a tolerance, it should not be considered in determining the amount of overload when the load is in excess of 110% of the maximum allowed. The charge should be for an overload of the maximum permitted by the statute.

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Additionally, it should be noted that section 111 setting fines refers to violations of weight limits permitted by section 109. It makes no mention of the special privileges granted by section 111-A.

It seems clear from the above that the legislature intended the charges and consequent fines to be based on the permissible maximum weight with no consideration being given to tolerances. Any other interpretation would be contrary to the legislative intent as expressed by the language of sections 111 and 111-A.

It should be pointed out, however, that no court is bound by an opinion from the Department of the Attorney General. Some judges may well disagree with this opinion. This disagreement can be resolved only by the Law Court or a clear statement by the legislature.

George C. West
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