

**OPINION
66-133**

September 30, 1966 (OPINION)

Mr. Ralph M. Wood
Superintendent
Highway Patrol

RE: Motor Vehicles - Implements of Husbandry - Equipment

This is in reply to your letter of September 28, 1966, informing us that:

There has been a question raised relative to a pickup truck classified as a motor vehicle becoming an implement of husbandry. Specifically, the question is when a pickup truck is pulling a trailer loaded with hay bales or any farm product is the entire unit to include the truck an implement of husbandry?

We have been studying subsections 22 and 72 of section 39-01-01, subsection 2 of section 39-21-15 and section 39-21-38 of the North Dakota Century Code but there still seems to be some confusion."

The statutes to which you refer, assuming the reference is meant to include the current amendments in the 1965 Supplement to the North Dakota Century Code, provides as follows:

39-01-01. DEFINITIONS. In this title, unless the context or subject matter otherwise requires:

* * *

22. 'Implement of husbandry' shall mean every vehicle designed and adapted exclusively for agricultural, horticultural or livestock raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highway;

* * *

72. 'Vehicle' shall include every device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks."

39-21-15. LAMPS ON FARM TRACTORS, FARM EQUIPMENT AND IMPLEMENTS OF HUSBANDRY. Every farm tractor, self-propelled unit of farm equipment, or towed implement of husbandry, when operated upon the highways of this state during the times mentioned in section 39-21-01, shall be equipped as follows:

* * *

2. Every towed unit of farm equipment or implement of

husbandry shall be equipped with at least one lamp displaying a red light visible when lighted from a distance of one thousand feet to the rear or two red reflectors visible from all distances within six hundred to one hundred feet to the rear when directly in front of lawful upper beams of head lamps. In addition, if the extreme left projection of such towed unit of farm equipment or left projection of such towed unit of farm equipment or implement of husbandry extends beyond the extreme left projection of the towing tractor or vehicle, such unit or implement shall be equipped with at least one amber lamp or reflector mounted to indicate as nearly as practicable the extreme left projection and visible from all distances within six hundred feet to one hundred feet to the front thereof when illuminated by the upper beams of head lamps and at least one red lamp reflector so mounted and visible from such distances to the rear.

The lamps and reflectors required by this section shall be so positioned as to show from front and rear as nearly as practicable the extreme projection of the vehicle carrying them on the side of the roadway used in passing such vehicle. If a farm tractor or a unit of farm equipment, whether self-propelled or towed, is equipped with two or more lamps or reflectors visible from the front or two or more lamps or reflectors visible from the rear, such lamps or reflectors shall be so positioned that the extreme projections both to the left and to the right of said vehicle shall be indicated as nearly as is practicable."

39-21-38. MIRRORS. On and after January 1, 1964, every motor vehicle, operated singly or when towing any other vehicle, shall be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of such motor vehicle."

As indicated in the heading of section 39-01-01 of the 1965 Supplement to the North Dakota Century Code, the application of definitions is dependent upon context and subject matter. Subsection 2 of section 39-21-15 does indicate that there can be such as thing as a towed unit of farm equipment, although it does not necessarily militate against the concept of a pickup truck combined with a towed unit of farm equipment as constituting an "implement of husbandry." In any case, however, we find it difficult to conceive of a pickup truck attached to a unit of farm machinery by the usual towing devices as being "exclusively designed and adapted" for the stated purposes although additional evidentiary material in a particular instance might lead to a different conclusion. Section 39-21-38 as considered above does, of course, make separate provisions for only the towing vehicle or vehicle operated singly.

Section 39-21-15 makes separate provision for tractors and self-propelled units of farms equipment. Subsection 2 would appear to make specific and separate provisions for "towed unit of farm equipment or implement of husbandry." Because separate statutory treatment has been provided for the towed unit, we would find it extremely difficult to construe the pickup farm equipment combination

to constitute a single "tractor" or "self-propelled unit of farm equipment" within the meaning of subsection 1 of this statute. On such basis in the usual context or subject matter, it is our opinion that the towed equipment or implement would be necessarily governed by the provisions of paragraph one of subsection 2 of this statute.

In view of the statutory provisions considered above and the practicalities of the situation, we further conclude that an ordinary pickup or truck does not become an implement of husbandry merely by towing or pulling a trailer.

HELGI JOHANNESON

Attorney General