

Office of the Attorney General
State of North Dakota

Opinion No. 81-139

Date Issued: December 24, 1981

Requested by: Owen K. Mehrer
Stark County State's Attorney

--QUESTIONS PRESENTED--

I.

Whether, pursuant to Section 39-12-03 of the North Dakota Century Code, a county may establish a year-round vehicle gross weight limit of 80,000 pounds on roads under the county's jurisdiction.

II.

Whether such a vehicle gross weight limit would be in conflict with Section 39-12-05.1, N.D.C.C.

--ATTORNEY GENERAL'S OPINION--

I.

It is my opinion that a county may, pursuant to Section 39-12-03, N.D.C.C., establish a year-round vehicle gross weight limit of 80,000 pounds on roads under its jurisdiction if it is determined that the conditions set forth in Section 39-12-03, N.D.C.C., are present.

II.

It is my further opinion that such a vehicle gross weight limit would not be in conflict with Section 39-12-05.1, N.D.C.C.

--ANALYSIS--

I.

Section 39-12-01, N.D.C.C., states:

The commissioner, the board of county commissioners, and other appropriate bodies having control of roads, may classify public highways and

roads under their respective jurisdictions and enforce limitations as to the weight and load of vehicles thereon for such respective classifications.

Since the board of county commissioners has control over county roads, this section gives them the power to classify public highways and roads and to enforce weight and load limitations.

Section 39-12-03, N.D.C.C., states in part:

Whenever any highway will be seriously damaged or destroyed by reason of deterioration, rain, snow, or other climatic conditions unless the use of vehicles is prohibited or the weight of the vehicle thereon is limited, the commissioner or employees authorized by him by an order, and local authorities by ordinance or resolution, may prohibit the operation of vehicles upon such highway or may impose restrictions as to the weight of vehicles. .

..

These two sections taken together empower the board of county commissioners to impose limitations on the weight of a vehicle using the roads within their jurisdiction.

II.

Section 39-12-05.1, N.D.C.C., allows the highway commissioner or local authorities to designate certain highways under their jurisdiction that will have certain vehicle weight limitations imposed upon their use. Nowhere in this section is it stated that these are the only weight limitations that may be placed upon highways. In enacting this statute, the Legislative Assembly did not repeal Sections 39-12-01 and 39-12-03, N.D.C.C. It is therefore my opinion that this creates a general weight limitation that may be imposed on designated highways.

--EFFECT--

This opinion is issued pursuant to Section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

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Attorney General

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