

**OPINION  
52-79**

November 24, 1952        (OPINION)

MOTOR VEHICLES

RE:    Size Permitted on Highways

Reference is made to your letter of October 27, 1952, wherein you state that in your county "there has been rather extensive use of 'lowboy' trailers, which measure a width of 16 feet pulled behind tractors, on which there is loaded an entire stack of hay and which takes up practically one-half of the conventional highway."

You therefore request an opinion as to whether or not it is permissible to operate such a vehicle upon the public highway without first obtaining a permit as provided in Section 39-1202 of the North Dakota Revised Code of 1943.

Section 39-0101(21) defines "vehicle" as "'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;"

The type of trailer you refer to would therefore come within the definition of vehicle and the provisions of Title 39.

Section 39-1204 which provides the width, height and length of vehicles was amended by Chapter 254 of the 1951 Session Laws and provides as follows:

WIDTH, HEIGHT, AND LENGTH LIMITATIONS ON VEHICLES; EXCEPTIONS.  
Vehicles operated on a highway in this state shall not exceed the following width, height, or length limitations:

1. A total outside width, including load thereon, of eight feet. this limitation shall not apply to construction and building moving contractor's equipment, or to equipment used by such contractors to move their own equipment and when so moved by its owner or owners, the moving equipment shall not exceed ten feet, nor to implements of husbandry temporarily propelled or moved upon the highways of this state between sunrise and sunset.
2. A height of twelve feet six inches whether loaded or unload.
3. \* \* \*

It is therefore our opinion that the vehicle described in your letter definitely exceeds the width limitation as outlined above and we can find no exemptions which would exempt the type of trailer described.

Section 39-1202 provides for the obtaining of special permits to authorize the operating of a vehicle of a size exceeding the maximum

specified by Section 39-1204, and it is our further opinion that to operate a vehicle such as you describe, the operator must first obtain the special permit as provided for in Section 39-1202.

ELMO T. CHRISTIANSON

Attorney General