



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

GROVER SELLERS
XXXXXXXXXX XXXXXXXXXXXXX
WILL WILSON
ATTORNEY GENERAL

Honorable Pat Beene
County Attorney
Andrews County
Andrews, Texas

Dear Sir:

Opinion No. 0-6925

Re: Registration of trucks
which are operated on a
road in the process of
construction under facts
given.

We are in receipt of your letter of recent date re-
questing the opinion of this department on the above stated
matter. We quote from your letter as follows:

"We have several gravel dump trucks oper-
ating on a construction job, such construction
being that of a new highway. The trucks carry
gravel from a pit up on to the sub-grade, but
do not haul on any portion of a completed and
opened highway.

"Such trucks are registered for their weight
empty. Is it necessary under the laws of the
State of Texas that such trucks be registered for
the weight which they carry loaded?

"Is a road that is in the process of being
constructed deemed a public highway under Article
6675a-1, subsection (m)?"

In the absence of certain necessary information
relative to the highway construction job referred to in your
letter, and in view of the urgency of your request, we have
secured the following information from the State Highway De-
partment concerning construction work now in progress on a

state designated highway in Andrews County:

- (1) The State Highway Department is now sponsoring a project in Andrews County for grading, culverts, flexible base and asphalt surfacing of a "Ranch to Market" road, from a point of 16.85 miles west of Andrews to the New Mexico state line, a distance of 14.738 miles.
- (2) Said project is a Federal Aid project, designated as F. A. S. 194-A(1).
- (3) The right of way of the above mentioned construction project is 120 feet in width, and the right of way of a county road which has been in use for many years is included within the 120' right of way of the above mentioned project. The highway, upon which above mentioned construction is in progress, follows the route of the above mentioned county road for the entire length of the project and connects with a New Mexico highway at the state line.
- (4) Said road upon which the State Highway Department is now making the aforementioned improvements was designated as a State Highway by the State Highway Commission on August 22, 1945. (State Highway Commission Minute No. 21382).
- (5) The road has not been closed to public travel and is open to public traffic at this time, even though construction work is now in progress.

Article 6657a-2, Vernon's Annotated Civil Statutes, in part provides:

"Every owner of a motor vehicle, trailer or semi-trailer used or to be used upon the public highways of **this** State shall apply each year to the State Highway Department through the County Tax Collector of the county in which he resides for the registration of each such vehicle owned or controlled by him for the ensuing or current calendar year or unexpired portion thereof;
. . ."

Art. 6675a-6, V. A. C. S., provides;

"The annual license fee for the registration of a commercial motor vehicle or truck tractor shall be based upon the gross weight and tire equipment of the vehicle as follows:

". . .

"The term 'gross weight' as used in this section shall mean the actual weight of the vehicle fully equipped with body, and other equipment, as certified by any Official Public Weigher or any License and Weight Inspector of the State Highway Department, plus its net carrying capacity. 'Net carrying capacity' of any vehicle except a bus, as used in this section, shall be the weight of the heaviest net load to be carried on the vehicle being registered; provided said net carrying capacity shall in no case be less than the manufacturer's rated carrying capacity. . ."

Art. 6675a-1, subsection (m), V. A. C. S., provides:

" 'Public Highway' shall include any road, street, way, thoroughfare or bridge in this State not privately owned or controlled for the use of vehicles over which the State has legislative jurisdiction under its police power."

When a road has been used for public travel as a county road for many years, is now designated as a State Highway, and even though certain construction work is now in progress, said road has not been closed to traffic and is now open to public travel, it is our opinion that said road is a public highway within the plain meaning of Article 6675a-2, subsection (m), supra.

If the construction job referred to in your letter is on the State Highway west of Andrews to the New Mexico line, hereinabove described, in view of the foregoing, it is our opinion that said highway is a public highway under the provisions of Article 6657a-a, subsection (m). It is therefore our further opinion that when trucks operate on any portion of such public highway, such trucks should be registered for "gross weight," in accordance with the provisions of Article 6675a-6, supra.

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We trust that the above and foregoing satisfactorily answers your inquiry.

Yours very truly,
ATTORNEY GENERAL OF TEXAS

By J. A. Ellis
Assistant

JAE:pam

APPROVED NOV 10, 1945
Carlos C. Ashley
First Assistant
Attorney General

APPROVED OPINION COMMITTEE
BY BWB, CHAIRMAN