



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

July 23, 1957

Honorable D. C. Greer
Texas Highway Engineer
Texas Highway Department
Austin, Texas

Opinion No. WW-200

RE: Date on which the
provisions of Senate
Bill 268, 55th Leg-
islature, became
or will become
effective.

Dear Mr. Greer:

In your letter of June 21, 1957, you requested the opinion of this office on the following question:

On what date did the provisions of Senate Bill 268 of the 55th Legislature become effective, or upon what date will such bill become effective?

As stated in your letter, Senate Bill 268, as passed by the 55th Legislature, authorizes the operation of certain vehicles on the highways and roads of this State "whose total gross weight shall not exceed fifty-eight thousand (58,000) pounds, . . ."

Section 3 of Senate Bill No. 268 contained the usual emergency clause, and we are advised that it received sufficient votes in both the House and the Senate to make it effective immediately upon signing by the Governor. The Bill was in fact signed by the Governor on May 7, 1957.

Within the body of the Act, as a part of the repealer clause, the following language is found in Section 2:

". . . this Act shall not be effective as long as it prevents the receipt of Federal Aid Funds provided for in the Federal Aid Highway Act of 1956, Title I of Act, June 29, 1956."

Subsection (j), Section 108, of the Federal Aid Highway Act of 1956, provides:

"No funds authorized to be appropriated

for any fiscal year by this Section shall be apportioned to any State within the boundaries of which the interstate System may lawfully be used by vehicles with weight in excess of eighteen thousand pounds carried on any one axle"

The question to be decided, then, is whether, under this Act, vehicles with weight in excess of 18,000 pounds carried on any one axle will be permitted in Texas. Under Article 827a Section 5 subsection (c) has provided that no axle shall carry a load in excess of 18,000 on low pressure tires.

Under the provisions of the new Section 5a as set out in Section 1 of Senate Bill 268, it is provided that it shall be lawful to operate motor vehicles whose total gross weight shall not exceed 58,000 pounds

"where such vehicles comply with all other provisions of law excepting only as to their total gross weight and the limitations of weight on axle or groups of axles."

The effect of the above quoted portion of new Section 5a is to repeal the above mentioned provisions which under the present law limits the axle load to 18,000 pounds, and will permit a load in excess of that weight.

Under the provisions of Section 2 of said Senate Bill 268, it is provided said Act

"shall not be effective as long as it prevents the receipt of Federal Aid Funds provided for in the Federal Aid Highway Act of 1956, Title I of Act, June 29, 1956."

In view of the fact that new Section 5a of Senate Bill 268 authorizes an axle load limit in excess of 18,000 pounds, it would prevent the receipt of Federal Funds as above provided, and said Act has, therefore, never become effective.

Since under the terms of the Act, itself, it has never become effective, it is not necessary for us to pass on the constitutionality of the Act which raises the question as to whether there is a delegation of authority to Congress by the Texas Legislature to

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enact or suspend a law.

SUMMARY

The provisions of Senate Bill 268, 55th Legislature, have never become effective. Said Act, therefore, does not have the effect of changing the laws of Texas with reference to the weight allowed vehicles on public highways.

Very truly yours,

WILL WILSON
Attorney General of Texas

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APPROVED:

OPINION COMMITTEE
H. Grady Chandler, Chairman
W. R. Hemphill
Wayland C. Rivers, Jr.

REVIEWED FOR THE ATTORNEY GENERAL

BY: Geo. P. Blackburn