



REPLY TO:  
Eugene A. Smith  
Transportation Section

# State of North Carolina

Department of Justice

P.O. BOX 25201  
RALEIGH, N. C. 27611

(919)733-3316  
(919)733-4185  
FAX 733-9329

MICHAEL F. EASLEY  
ATTORNEY GENERAL

## MEMORANDUM

**TO:** J. M. Lynch, P.E.  
State Traffic Engineer

**FROM:** Eugene A. Smith *EAS*  
Senior Deputy Attorney General

**DATE:** April 8, 1996

**SUBJECT:** Truck Routes - City of Wilmington - State Highway System Streets

This is in response to your memorandum of February 16, 1996 inquiring as to the authority of the City of Wilmington and the Department of Transportation to place restrictions on truck traffic on certain State highway system streets based upon the gross vehicle weight rating (GVWR), or the number of axles. The City proposes restrictions on trucks that would apply to U.S. routes 421, 74, 76 and 17 through the downtown section of Wilmington. The laws of most states permit the state or local authority having jurisdiction to exclude trucks or other commercial vehicles from any designated highway where signs have been placed giving this notice. MUTCD 2B-28 1988 Ed. North Carolina has no such express authority.

The legislature provided a uniform statewide maximum size and weight truck limitation which "shall be lawful throughout this State" and restricted local governments from altering them. G.S. 20-115; G.S. 20-169; G.S. 160A-296. The legislature provided for permits to exceed the limitations (G.S. 20-119), and also provided a manner to lower the weight restrictions on certain roads and bridges. G.S. 20-116(h) provides for altering the statewide restrictions by lowering the maximum gross vehicle weight and axle load on a parallel route after a truck route has been designated. G.S. 20-118 (a)(5) and G.S. 20-118 (b)(4) authorize the establishment of light traffic roads on any highway having a secondary road number, and the altering of the statewide restriction by lowering the axle weight restriction on the light traffic highways. GVWR is used for the purposes of licensing and operation on all streets and highways, but not for the purpose of the weight restriction of trucks on light traffic roads or routes parallel to truck routes. Other statutes also govern truck weight restrictions in other situations. G.S. 20-121 authorizes 90 day weight restriction on certain highways based upon climatic conditions or deteriorating highway conditions, without specifying the manner. G.S. 136-72 authorizes restrictions on bridges to a "gross vehicle weight" not to exceed the safe load-carrying capacity.

The legislature also directed that traffic control devices placed on State highways conform to the MUTCD (Manual on Uniform Traffic Control Devices). G.S. 136-30. The MUTCD provides for signs for truck weight restrictions based upon axle weight and gross vehicle weight. However, the MUTCD does not provide for truck restrictions based upon the number of axles or the GVWR.

In summary, the legislature established or provided for (1) uniform truck weight limits which "shall be lawful throughout this State"; (2) the manner of restriction of trucks on certain state highways by the gross vehicle weight or axle weight after establishing a parallel truck route; (3) establishing light traffic roads and axle weight restrictions on trucks using light traffic roads; and (4) for truck weight restrictions in other specific cases including substandard bridges. The legislature has not expressly authorized or provided for (1) the restriction of truck traffic on state highways in urban areas by reason of traffic congestion, local conditions or traffic noise; (2) the exclusion of trucks or commercial vehicles; (3) nor the restriction of trucks on State highways based upon the number of axles or the GVWR.

The grant of authority to the DOT to alter the restriction on truck traffic is specific in each case, none of which authorizes truck restrictions on primary state highways based upon the number of axles or the GVWR. The generally accepted rules of statutory construction provide that authority cannot be implied in the face of an express prohibition and that a statute directing performance in a particular manner, by implication forbids performance in any other manner. 27 STRONGS INDEX 4th, Statutes ¶ 34, ¶ 36. Therefore, this office is of the opinion that the legislature having provided (1) statewide uniform truck weight limits which "shall be lawful throughout this State", (2) a statutory plan for DOT to follow in altering the restrictions on truck weight limits which does not include the number of axles or the GVWR, and (3) prohibited local governments from altering the limitations, did not authorize the proposed manner of restriction on trucks on State highway system streets and highways based upon the number of axles or the GVWR, by either the municipality or DOT.

This is an advisory memorandum. It has not been reviewed and approved in accordance with procedures for issuing an Attorney General's opinion. Please advise if this office can be of any further assistance.

EAS/bw