



STATE OF NORTH CAROLINA  
DEPARTMENT OF JUSTICE

ROY COOPER  
ATTORNEY GENERAL

MEMORANDUM

TO: Wayne O. Atkins, P.E.  
Division 11 Operations Engineer

FROM: Robert Crawford *RC*  
Special Deputy Attorney General

DATE: May 2, 2001

RE: Posting of "No Trucks" signs on state highway system road within a municipality<sup>1</sup>

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This is in response to your telephone inquiry concerning the posting of "No Trucks" and "No Through Trucks on Pine Street" signs on a state highway system road within the municipal limits of the City of Mount Airy. You informed me that the road was formerly a primary route, NC 89. It is now designated as a state secondary road. A section of Pine Street is designated as NC 103. The Mount Airy police are actively patrolling the road and have stopped and warned DOT truck drivers not to go that way. The city has not requested or received any concurrence in or approval of its actions by DOT. Division Engineer Carl McCann has communicated with the new city manager about this matter. The city manager cited N.C. Gen. Stat. § 160A-296 as the legal authority for the posting of the signs.

The law authorizing DOT and municipalities to regulate traffic on the state highway system within municipalities consists of a number of other statutes and regulations in addition to the one relied upon by the City.

You have asked (1) whether a municipality can unilaterally prohibit trucks on a road of the state highway system, and (2) if not, what is the appropriate procedure for obtaining DOT concurrence or approval.

Public streets within municipalities include those on the municipal street system and those on the state highway system. State highways within municipalities generally consist of those main through streets and highways. The municipal street system consists of the remainder of the public

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<sup>1</sup> This is an advisory memorandum. It has not been reviewed and approved in accordance with the procedures for issuing an Attorney General's opinion.

streets. Municipalities have the duty and responsibility of constructing and maintaining streets and highways on the municipal system and DOT has the duty and responsibility to maintain streets and highways on the state system. G.S. § 136-66.1; *See also* 58 N.C.A.G. 17.

Municipalities have general police power within municipalities, including state highways. G.S. § 160A-296 gives a city general authority and control over all public streets within its corporate limits "except to the extent that authority and control over certain streets and bridges is vested in the Board of Transportation." In addition, G.S. § 160A-300 allows a city to enact traffic control ordinances prohibiting, regulating, diverting, and limiting vehicular traffic upon the city's public streets. Therefore, as to streets not on the state highway system, municipalities may by reasonable ordinances restrict their use by vehicular traffic by establishing truck routes and maximum axle weights prohibiting the use of certain streets by trucks. *See* 41 N.C.A.G. 156.

DOT is vested with general regulatory authority over the use of state highway system streets. DOT is authorized to regulate the use of the state highways and to prevent their abuse by heavy trucks. G.S. § 136-18(5). The legislature has provided for uniform statewide maximums that are lawful throughout the state. G.S. § 20-115. Local authorities are prohibited from enacting or enforcing any rules or regulations contrary to DOT's vehicle size and weight limitations. *Id.*; G.S. § 20-169. G.S. § 20-116(h) authorizes DOT to designate "truck routes" on the state highway system and prohibit heavy trucks in excess of a designated maximum. Signs designating heavy truck routes must be conspicuously posted. G.S. § 20-118 authorizes DOT to establish light traffic roads. In sum, the general grant of authority to municipalities over streets is subordinate to DOT's rights and duties to maintain the state highway system. *Morehead City v. N.C. Dep't of Transp.*, 74 N.C. App. 66, 327 S.E.2d 602 (1985).

Furthermore, DOT must approve the erection of any regulatory signs within its right of way within municipal limits. G.S. § 136-18(19). All traffic signs on the State system must conform to the Manual on Uniform Traffic Control Devices for Streets and Highways ("MUTCD"). DOT has the power to control all signs within its right of way. G.S. § 136-30(a). Similarly, all traffic signs and other traffic control devices placed on a municipal street system must conform to the appearance criteria of the MUTCD. G.S. § 136-30(b). In addition, all traffic control devices placed on a state highway system road within municipal limits "must be approved by the Department of Transportation." *Id.*; *See also* 58 N.C.A.G. 17 and 43 N.C.A.G. 309.

Based on DOT's general power over the state highway system and authority to designate truck routes and signage, DOT adopted the following rule in the North Carolina Administrative Code:

***19A N.C. Admin. Code 2B.0213 Truck Route Designation***

(a) *Municipal governments have the authority to establish by ordinance truck routes on the state highway system within their corporate limits. Such truck routes must have approval of the Department of Transportation.*

(b) *The Department of Transportation also has authority to establish truck routes within a municipality. Truck routes may traverse both state highway system streets and municipal streets; however non-system streets may be designated as a truck route only by the municipality.*

(c) *The Department of Transportation will be responsible for all necessary signing on the state highway system streets with the municipality being responsible for signing that portion of the truck route traversing non-system streets.*

In conclusion, it is my opinion, based on the foregoing statutes and administrative rule, that a municipality may regulate and reasonably restrict truck traffic on streets of the municipal street system. However, a municipality is not authorized by the legislature to unilaterally prohibit truck traffic on a state highway system street within its corporate limits. DOT must approve truck routes on the state highway system within a municipality.

Also, as a practical matter, an ordinance adopted by a municipality prohibiting truck traffic on a state highway system road would not be enforceable unless DOT approved the posting of a "No Trucks" sign in the DOT right of way. An appropriate procedure for obtaining such approval would be for the municipality to request that DOT designate the road at issue as a light traffic road and provide an alternate heavy truck route under G.S. § 20-116(h) and approve the appropriate signage.

Let me know if you have any other questions or if I can be of any further assistance.

cc: Jimmy Lynch, State Traffic Engineer

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