

**OPINION
64-175**

April 1, 1964 (OPINION)

MOTOR VEHICLES

RE: Weight Limits - Levy of Penalty

This will acknowledge receipt of your request for an opinion interpreting section 39-12-17, N.D.C.C.

Subdivision a of subsection 2 of section 39-12-17 specifies that a charge shall be made at the rate of 1 cent per pound for each pound of weight in excess of the legal limit, up to 3000 pounds of excess weight.

Subdivision b of subsection 2 provides that the charge shall be 4 cents per pound for each pound which exceeds the legal limit by over 3000, but is less than 5000 pounds of excess.

Subdivision c of subsection 2 specifies that the charge shall be 8 cents per pound for each pound which exceeds the legal limit by over 5000 pounds.

We believe that this can be most readily explained by citing an example. Supposing that you have encountered a vehicle on the public highways with a gross weight of 60,000 pounds and you have determined that pursuant to the requirements of section 39-12-03 or 39-12-05 that the maximum legal gross weight at such time and place would be 50,000 pounds, the charges would be computed as follows:

For the excess over and above the legal limit being then 10,000 pounds and for the first 3000 pounds of such excess the charge would be \$30.

For the next 2000 pounds of excess the charge would be at the rate of 4 cents or \$80.

For the last 5000 pounds of excess the charge would be at the rate of 8 cents per pound or \$400, making a total charge of \$510.

If there are storage charges or costs of a legal action involved, they also shall be assessed as required by subsection 1 of section 39-12-17 N.D.C.C.

HELGI JOHANNESON

Attorney General