

**OPINION  
71-222**

July 19, 1971            (OPINION)

Colonel Ralph M. Wood

Superintendent

North Dakota Highway Patrol

RE: Motor Vehicles - Camper Trailers - Status

Dear Colonel Wood:

This is in reply to your letter of June 30, 1971, informing us that recent questions have arisen relative to camper trailers, best described as a fifth wheel type, which is attached to a pickup truck. The advertising brochure you enclose indicates that the advertised vehicle has the "same fifth-wheel hitching principal that is used in every semitrailer truck." The pictures therein would indicate that the towing principal is similar to that used in the usual semi-trailer truck combination with the basic exception that the towing vehicle is a pickup truck rather than the usual tractor truck.

Your questions are stated as:

1. May a person legally ride in a camper trailer of the fifth wheel type when such trailer is drawn by a motor vehicle upon the public highways of the state?
2. Would the unit identified in one above be considered a combination of units which would permit the towing of an additional camper trailer - such as a boat trailer described in Section 39-12-04 Subsection 6?
3. Would the driver of the tractor unit required to pull the trailer identified in one above be permitted to operate the combination of units on a class three drivers license as provided for in Subsection 3 of Section 39-06-13? Would this also be true if the trailer being towed weighs more than 6,000 pounds?"

Subsection 68 of Section 39-01-01 of the 1969 Supplement to the North Dakota Century Code defines house trailer or mobile home as follows:

8. 'Trailer' shall include every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle, except that it shall not include a 'house trailer' or 'mobile home,' which terms shall mean a vehicle as defined in this subsection which is designed and intended for use as living or sleeping quarters for people and which is not used for commercial hauling of passengers;"

Looking to the advertising brochure including pictures therein you enclose, it appears that the vehicles there advertised include the

equivalent of bedroom, bathroom, kitchen, etc., with appropriate equipment therefore, on which basis we would conclude that it is a vehicle as defined in said Subsection 68 of Section 39-01-01 which is designed and intended for use as living or sleeping quarters for people and which is not used for commercial hauling of passengers. On such basis we would further conclude that it can be considered a mobile home within the meaning of that term as specified in Section 39-18-04 of the North Dakota Century Code, which provides among other things that:

"Provided further that no person or persons shall ride in such mobile home while it is being moved upon the highways of this state."

On such basis it is our conclusion that a person may not legally ride in such vehicle when such a trailer is drawn by a motor vehicle upon the public highways of this state.

While we recognize the distinction between "semitrailers" as defined in Subsection 55 of Section 39-01-01, 1969 Supplement, and "trailer" as defined in Subsection 68 of Section 39-01-01, 1969 Supplement, the semitrailer being designed and used in conjunction with a motor vehicle that carries part of the trailer's weight and load, and the trailer being designed to carry property or passengers wholly on its own structure, and we further recognize that part of the weight of the vehicle and load are carried on the pickup in this instance, it is nevertheless our opinion that for purposes of the quoted portion of Section 39-18-04, same must necessarily be considered a "mobile home."

We might mention in this regard that while part of the weight of the towed vehicle here considered would actually rest upon and be carried by the towing vehicle, all of the property or passengers in the towed vehicle would necessarily also be carried wholly on the structure of the towed vehicle, though not necessarily being borne in entirety by the wheels of the towed vehicle.

Subsection 6 of Section 39-12-04 provides insofar as here applicable that:

6. A tractor truck and semitrailer may draw a trailer or semitrailer converted to a trailer by use of a dolly and fifth wheel, \* \* \* "

It seems doubtful that the pickup truck used in the described combination can be considered a "truck tractor" within the meaning of Section 39-01-01 Subsection 70 insofar as the pickup truck here considered is actually designed for use primarily for carrying a load, even though in this instance it has been converted to tractor use. Also, the towed vehicle cannot be considered to be a semi-trailer insofar as Subsection 55 of Section 39-01-01 specifically excludes from its definition "mobile homes" as defined in Subsection 68 of Section 39-09-01 of the 1969 Supplement to the North Dakota Century Code. On such basis, it is our opinion that the combination of vehicles here considered could not be considered a semitrailer and tractor truck combination permitted to draw a trailer or semitrailer converted to a trailer. Rather, by reason of the last

sentence of said Subsection 6 of Section 39-12-04, it is subject to the provision that:

"No more than two vehicles shall be used in any other combination." On such basis, the combination here considered of pickup truck and mobile home would be two vehicles and could not have a third vehicle included in any combination permitted under our statutes.

In the ordinary instance, it would appear to us that the driver of the "tractor unit" (in this instance a pickup truck) would be permitted to operate the combination of units on a class three drivers license as provided for in Subsection 3 of Section 39-06-13 of the 1969 Supplement to the North Dakota Century Code, such pickup truck being any two-axle or tandem-axle vehicle within the meaning of such statutory provision. However, we do note that excepted from the authorization of that section under Subdivision c thereof is:

"A two-axle or tandem-axle vehicle or combination of vehicles when towing a trailer when the trailer being towed has a gross weight in excess of six thousand pounds;"

On such basis, when the towed vehicle would weigh more than 6,000 pounds, the combination could be driven by a driver licensed only under the class 3 license. While, for purposes of this subdivision we would otherwise recognize the towed vehicle to be a "trailer" of a "semitrailer" as we would recognize same to be a "mobile home," it could not be a "trailer" under Section 39-01-01 Subsection 68, nor could it be a "semi-trailer" under Section 39-01-01, Subsection 55.

We hope the within and foregoing will be sufficient for your purposes.

HELGI JOHANNESON

Attorney General