

County detectives are in the classified civil service and may be removed where the fact of physical disability is established after notice and hearing pursuant to R.S. 11:22-38 and Rule 59(c) of the Department of Civil Service.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: ROBERT S. MILLER
Deputy Attorney General

AUGUST 15, 1961

HON. NED J. PARSEKIAN
Acting Director
Division of Motor Vehicles
25 South Montgomery Street
Trenton, New Jersey

MEMORANDUM OPINION—P-18

DEAR DIRECTOR PARSEKIAN:

We have been asked whether the overlength (i.e., the length in excess of 50 feet but not in excess of 70 feet) authorized by R.S. 39:3-84 in the case of "a vehicle or combination of vehicles transporting poles, pilings, structural units or other articles incapable of dismemberment" applies only to the load or also to the vehicle or combination of vehicles where the load does not extend beyond it or them.

L. 1921, c. 208, appears to be the earliest statute limiting the length of motor vehicles which may be operated on the public highways of this State. Paragraph (1) of § 21 of this act forbade combinations of more than two vehicles with the following proviso:

"Any municipality while operating municipally owned vehicle or vehicles under contract over any highway maintained wholly by such municipality may use more than one motor-drawn vehicle, but not exceeding three motor-drawn vehicles in the aggregate while such municipality is engaged in the collection of garbage, ashes, or street repairs."

Paragraph (4) of § 21 generally limited the "extreme over-length" of any vehicle to 28 feet. But it contained the following proviso:

"Where more than one vehicle or trailer is operated, the length of such vehicles may exceed twenty-eight feet; but in no event shall all such vehicles or trailers so drawn or operated exceed eighty-five feet in length over all."

The extreme limit in the proviso of 85 feet appears to have been intended to govern combinations of vehicles utilized by municipalities in the collection of garbage, ashes or street repairs pursuant to paragraph (1) of § 21. No specific limitation of the combined length of a truck and trailer or a tractor and semitrailer was contained in the 1921 act.

The final sentence of paragraph (4) of § 21, applicable both to the general limitation of length and to the proviso read as follows:

"All of the aforesaid dimensions shall be inclusive of the load."

L. 1935, c. 265, amended the 1921 act in several important respects. It made the 28 feet limitation applicable to a two-axle vehicle, but extended the limit for a three-axle vehicle to 35 feet. §1. It provided specific limitations for truck-trailer and tractor-semitrailer combinations, of 50 feet and 45 feet respectively. *Id.* It also enacted the operative language of the present text of R.S. 39:3-84, with which this opinion is concerned, authorizing:

"a vehicle or a combination of vehicles transporting poles, pilings, structural units or other articles incapable of dismemberment the total overall length of which shall not exceed seventy (70) feet." *Id.*

The language of the 1921 act that all stated dimensions be inclusive of load was repeated.

The 1935 act did not become fully effective upon enactment. A grace period was permitted to vehicles then in operation or probably in the process of manufacture. Section 3 of the 1935 act read as follows:

"This act shall take effect immediately; *provided*, that the limitations as to *combined weights and lengths of vehicle and load* as applied to vehicles now in operation or manufactured or constructed prior to the first day of January, one thousand nine hundred and thirty-six, shall not be effective until the first day of January, one thousand nine hundred and forty-one."
(Emphasis added.)

By L. 1942, c. 268, the permissible length of two-axle vehicles was increased to 35 feet, the same as for three-axle vehicles, and the power to limit the length of buses was delegated to the Board of Public Utility Commissioners. The other provisions of the 1935 act were unchanged by the 1942 act.

L. 1950, c. 142, §2, increased the permissible height of vehicles from 12½ to 13½ feet, but left unchanged the length limitations.

L. 1955, c. 198, did not change the specific height or weight limits. But it deleted the sentence providing that generally the stated dimensions of length shall be inclusive of load, but inserted the qualification "inclusive of load" before the 45 feet limitation on tractor-semitrailer combinations, before the 50 feet limitation on truck-trailer combinations, and before the 70 feet limitation on vehicles or combinations of vehicles transporting structural units. This appears to be a change of style, and not of substance.

L. 1957, c. 161, continued the pattern of the 1955 act, and all the length limitations in the 1955 act except that the 1957 act increased the permissible length of tractor-semitrailer combinations to "a total overall length, inclusive of load, of 50 feet * * *"

The foregoing statutory history shows a legislative intent to make the length limits generally measurable from that part of the load or vehicle most extended in one direction to that part of the load or vehicle most extended in the opposite direction.

The contention has been made, however, that the 70 feet limitation applies only to vehicles *while in the act* of transporting poles, pilings, structural units or other articles incapable of dismemberment. A practical consequence of such an interpretation is either to limit the length of the vehicle or combination of vehicles to 50 feet, even though permitting the load to extend an additional 20 feet beyond the vehicle

or combination of vehicles, or to induce the transportation of poles, pilings, girders and other structural units which cannot be carried on 50 foot vehicles with their front supported by a conventional truck or semitrailer and the rear supported by a small special vehicle consisting almost entirely of an axle or set of axles to which the load is temporarily affixed and with the load supporting itself between these two points of support and beyond the rear axle or set of axles. We have been advised by the Chief Engineer of the Highway Department that these alternatives present in some respects a greater hazard to other users of the highways than does the operation of overlength vehicles where the overlength results from the vehicle itself.

For these reasons it is our opinion that a vehicle or combination of vehicles may have an overall length of not more than 70 feet measured from the part of the vehicle or load most extended in one direction to the part of the vehicle or load most extended in the opposite direction under any one or more of the following circumstances:

(1) where it is actually engaged in transporting poles, pilings, structural units or other articles incapable of dismemberment which cannot be safely carried on a vehicle or combination of vehicles meeting the 50 feet limit; or

(2) where it is engaged in activity ancillary to such transportation, such as being operated unloaded to a point at which it is to be loaded with one or more of the enumerated categories of materials, being operated unloaded from the point at which it was unloaded to its origin or to the point of loading for another load, and otherwise where the operation is directly incidental to the mode of operation described in paragraph 1 of this sentence.

To cite a specific example, it might be lawful for a truck-trailer combination measuring 65 feet in length to transport a bridge beam resting on the trailer with the most rearward point of the beam 56 feet from the front bumper of the truck and 9 feet forward of the most rearward part of the trailer. It would be lawful for such a combination to return empty after being unloaded.

Very truly yours,

DAVID D. FURMAN
Attorney General

AUGUST 16, 1961

HONORABLE KATHARINE E. WHITE
Acting State Treasurer
State House
Trenton, New Jersey

MEMORANDUM OPINION—P-19

DEAR MRS. WHITE:

You have sought our advice as to the scope of P.L. 1959, c. 101 in determining what constitutes the annuity portion of a member's retirement allowance. Specifically, you ask what statutory pension systems, if any, are excepted from the application of Chapter 3 of Title 43 by reason of the 1959 amendment (P.L. 1959, c. 101), which provides in pertinent part: