

Lori Acree

From: John Blickensderfer
Sent: Wednesday, September 16, 2009 10:13 AM
To: Lori Acree
Cc: Julie Guy
Subject: FW: Weight limits on county Roads
Attachments: wt limit sign 47_14-113.pdf; AG opinion No. 41.pdf; wt limit 47_14-114.pdf

From: randyr [mailto:randyr@okacco.com]
Sent: Monday, August 24, 2009 10:38 AM
To: gdeckard@countycourthouse.org; John Blickensderfer; district2@intellex.com; ced2@dataflys.com; latimercodist3@yahoo.com; emcintoshced3@yahoo.com; garypontoc@yahoo.com; cedfour@gmail.com; kholden@windstream.net; CED5@AtLinkWifi.com; caddodistrict3@carnegienet.net; kwall@itlnet.net; ddunn@jacksoncountyyok.com; monte.goucher@ced-7.org; dsdeerhunter@yahoo.com; donnieh@okacco.com; John Northup
Cc: 'Gayle Ward'; carlab@okacco.com; 'Amanda Sanders'
Subject: Weight limits on county Roads

This question came up today and thought it would be an opportune time to discuss this again.

AGs opinion: Posting roads does not have to be an immediate threat/damage. Counties do not have to remove the posting signs.

Section 113: Posting county roads

Section 114: Liability for damage

In answer to questions concerning “placing weight limits on County Roads”, please refer to the following:

1. **Pass a resolution. Include in resolution the location of road, where it starts and stops, and the weight limit, tonnage, the road will be posted at.**
2. **File resolution with the County Clerk.**
3. **Submit a copy of the filed resolution to:**

**Oklahoma Department of Public Safety
Oklahoma Highway Patrol
Commercial Vehicle Enforcement
Att: Captain Craig Medcalf
Troop S
P.O. Box 11415
Oklahoma City, Ok 73136**

4. **After notifying the Oklahoma Department of Public Safety you may post the road.
(See Title 47 § 14-113)**

REMEMBER WEIGHT LIMITS AFFECTS ALL VEHICLE TRAFFIC.

*Randy Robinson
Transportation Engineer
Oklahoma Cooperative Circuit Engineering Districts Board
Phone- (405) 516-5319*

47 Okl.St. Ann. § 14-113

Title 47. Motor Vehicles ([Refs & Annos](#)) Highway Safety Code

Chapter 14. Size, Weight and Load ([Refs & Annos](#))

§ 14-113. When the department of highways or local authorities may restrict right to use highways

The Director of the Department of Transportation with respect to highways on the state highway system, or local authorities with respect to highways under their jurisdiction, as defined in Title 69 of the Oklahoma Statutes, may prohibit the operation of vehicles on any such highways, or impose restrictions as to the weights of vehicles to be operated upon any state or federal highway or any detour established for such highways, or for any bridge located upon such highways or detours, whenever any such highway, detour or bridge by reason of deterioration, rain, snow or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weight reduced. Such restrictions shall be effective when signs giving notice thereof are erected upon the highway, detour, bridge, or portion thereof affected by such action, and the Department of Public Safety has been notified. The purpose of this provision with respect to local authorities is to give such authorities an opportunity to prevent or minimize an immediate threat of serious harm or destruction to any highway, detour or bridge under their jurisdiction due to rain, snow or other climatic conditions. Nothing stated herein shall be construed to grant local authorities the right to issue permits designed to regulate the use of overweight vehicles upon highways subject to their jurisdiction, and the issuance of such permits is expressly prohibited.

CREDIT(S)

Laws 1961, p. 417, § 14-113, eff. Sept. 1, 1961; [Laws 2001, c. 249, § 8, eff. July 1, 2001.](#)

NOTES OF DECISIONS

1. Construction and application

County authorities must find an immediate threat of serious harm or destruction exists in order to impose weight restrictions on highways, detours and bridges due to rain, snow, or other climatic conditions, but the finding is not necessary when, by reason of deterioration, the highways, detours and bridges will be seriously damaged or destroyed unless weight restrictions are imposed. Op.Atty.Gen. No. 01-41 (Oct. 9, 2001).

2. Posted weight limits

Existing weight limit signs on highways, detours or bridges need not be removed if the signs are necessary for (a) the prevention of serious damage or destruction to a highway, detour or bridge which may be caused by deterioration or (b) the prevention or minimization of an immediate threat of serious harm or destruction to the highway, detour or bridge due to rain, snow or other climatic conditions. Op.Atty.Gen. No. 01-41 (Oct. 9, 2001).

Exceeding the posted weight limit on a bridge on a county section line road is a misdemeanor criminal offense punishable under § 14-117 of this title. Op.Atty.Gen. No. 82-2 (Feb. 19, 1982).

The driver or owner of a vehicle which exceeds the posted weight limit on a county section line road bridge may be held liable under § 14-114 of this title for any damages caused by such vehicle to a county section line road bridge by reason of exceeding such weight limit. Op.Atty.Gen. No. 82-2 (Feb. 19, 1982).

The county sheriff or his deputy is the appropriate county official to effectuate a lawful arrest of a person violating a posted weight limit on a county section line road bridge. Op.Atty.Gen. No. 82-2 (Feb. 19, 1982).

**Question Submitted by: The Honorable Robert L. Hudson, District Attorney,
District 9
2001 OK AG 41
Decided: 10/09/2001
Oklahoma Attorney General Opinions**

Cite as: 2001 OK AG 41, __ __

¶0 This office has received your request for an official Attorney General Opinion in which you ask, in effect, the following questions:

1. Does Section 8 of Senate Bill 119 (2001 Okla. Sess. Laws ch. 249, § 8 (amending [47 O.S. 1991, § 14-113](#))), require county authorities to find an immediate threat of serious harm or destruction exists before weight restrictions can be imposed on motor vehicles operating on highways, detours, and bridges under the jurisdiction of the county authorities?

2. Does Section 8 of Senate Bill 119 require county authorities to remove existing weight limit signs from county roads?

¶1 The State's highways are divided into two classes: the state highway system and the county highway system. [69 O.S. Supp. 2000, § 501\(A\)](#). The county highway system consists of all public roads within any county, less any roads the State Transportation Commission designates as State highways, and less any roads under the jurisdiction of cities, towns, or other political subdivisions. [69 O.S. Supp. 2000, § 601\(A\)](#); [69 O.S. 1991, § 601.2](#). The boards of county commissioners of the various counties have exclusive jurisdiction over the designation, construction, maintenance and repair of all county highways and bridges. [69 O.S. Supp. 2000, § 601\(A\)](#).

I.

¶2 The Legislature has expressed its intent to provide boards of county commissioners sufficiently broad authority to function adequately and efficiently in all areas of appropriate jurisdiction, including "taking all necessary steps to ensure safe and convenient transportation." [69 O.S. 1991 § 101\(g\)](#). Size, weight and load limits for motor vehicles operating on the state and county highway systems are statutorily established by [47 O.S. 1991 & Supp. 2000, §§ 14-101](#) through 14-121. Prior to Senate Bill ("S.B.") 119, Section 14-113 authorized county commissioners to impose weight restrictions on vehicles operating on highways, detours, and bridges under their jurisdiction. [47 O.S. 1991, § 14-113](#); see also A.G. Opin. 82-2 ("Section 14-113 . . . authorize[s] local authorities, including Boards of County Commissioners, to establish weight limits on highways or bridges under their jurisdiction, where by reason of 'deterioration, rain, snow, or other climatic conditions, [the same] will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weight reduced'"). *Id.* at 8 (citation omitted). In Section 8 of S.B. 119, Section 14-113 was amended to include, among other things, a stated legislative purpose in the statute. Section 8 of S.B. 119 provides as follows:

The Director of the Department of Highways Transportation with respect to highways on the state highway system, or local authorities with respect to highways under their jurisdiction, as defined in Title 69 of the Oklahoma Statutes, may prohibit the operation of vehicles on any such highways, or impose restrictions as to the weights of vehicles to be operated upon any state or federal highway or any detour established for such highways, or for any bridge located upon such highways or detours, whenever any such highway, detour or bridge by reason of deterioration, rain, snow or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weight reduced. Such restrictions shall be effective when signs giving notice thereof are erected upon the highway, detour, bridge, or portion thereof affected by such action, and the Department of Public Safety has been notified. The purpose of this provision with respect to local authorities is to give such authorities an opportunity to prevent or minimize an immediate threat of serious harm or destruction to any highway, detour or bridge under their jurisdiction due

to rain, snow or other climatic conditions. Nothing stated herein shall be construed to grant local authorities the right to issue permits designed to regulate the use of overweight vehicles upon highways subject to their jurisdiction, and the issuance of such permits is expressly prohibited.

2001 Okla. Sess. Laws ch. 249, § 8 (amending [47 O.S. 1991, § 14-113](#)). You first ask whether S.B. 119 restricts the authority of county officials to impose weight restrictions on highways, detours, and bridges within their jurisdiction. Specifically, does S.B. 119 require county authorities to find an immediate threat of serious harm or destruction exists before they can impose weight restrictions on motor vehicles operating on highways, detours, and bridges under their jurisdiction?

¶3 Senate Bill 119 did not change the language in [47 O.S. 1991, § 14-113](#) which provides that local authorities may impose weight restrictions on vehicles operating on highways, detours, and bridges under their jurisdiction "whenever any such highway, detour or bridge by reason of **deterioration, rain, snow or other climatic conditions** will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weight reduced." *Id.* (emphasis added). However, S.B. 119 added a stated legislative purpose to the provisions of Section 14-113 as follows: "The purpose of this provision with respect to local authorities is to give such authorities an opportunity to prevent or minimize an immediate threat of serious harm or destruction to any highway, detour or bridge under their jurisdiction due to **rain, snow or other climatic conditions**." 2001 Okla. Sess. Laws ch. 249, § 8 (amending [47 O.S. 1991, § 14-113](#)) (emphasis added). This amendment creates an ambiguity in the statute because the added language stating the legislature's purpose does not include any reference to local authorities' power to impose weight restrictions to prevent **deterioration** of highways, detours, and bridges.

¶4 When a statute is ambiguous, resort must be made to established rules of statutory construction. The fundamental principle of statutory construction is to ascertain the underlying legislative intent through an examination of the statute's language. *Sullivant v. Oklahoma City*, [940 P.2d 220](#), 224 (Okla. 1997). "Statutes must be read to render every part operative and to avoid rendering [any part] superfluous or useless." *Comer v. Preferred Risk Mut. Ins. Co.*, [991 P.2d 1006](#), 1014 n.35 (Okla. 1999) (citations omitted). Section 14-113 authorizes county officials to impose weight restrictions to prevent serious damage or destruction which may be caused by deterioration. However, in the language added to Section 14-113 by S.B. 119 the Legislature did not mention deterioration when stating that the purpose of the provision, with respect to local authorities, is to provide "an opportunity to prevent or minimize an immediate threat of serious harm or destruction . . . due to rain, snow, or other climatic conditions." To give effect to the entire statute, as amended, it must be construed to allow county authorities to impose weight limits on highways, detours, and bridges under their jurisdiction (i) to prevent serious damage or destruction which may be caused by deterioration, or (ii) to prevent or minimize an immediate threat of serious harm or destruction due to rain, snow, or other climatic condition. "The legislature will not be presumed to have intended an absurd result." *In re Holt*, [932 P.2d 1130](#), 1135 (Okla. 1997) (citation omitted). It would be an absurd result to construe S.B. 119's amendment of Section 14-113 to allow county authorities to impose weight restrictions only when an immediate threat of serious harm or destruction exists, in effect eliminating the longstanding authority of county officials to impose weight restrictions to prevent serious damage or destruction which may be caused by deterioration.

¶5 Section 8 of S.B. 119 requires local authorities to find an immediate threat of serious harm or destruction exists due to rain, snow, or other climatic conditions before weight restrictions can be imposed on motor vehicles operating on highways, detours, and bridges. However, Section 8 does not require local authorities to find an immediate threat of serious harm or destruction exists before weight limits can be imposed to prevent serious damage or destruction which may be caused by deterioration.

II.

¶6 Your second question asks, does Section 8 of S.B. 119 require counties to remove existing weight limit signs from county roads?

¶7 Section 14-113 permits local authorities to impose weight restrictions on vehicles whenever (i) deterioration will cause serious damage or destruction to highways, detours, or bridges under their jurisdiction unless the permissible weights of vehicles are reduced; or (ii) necessary to prevent or minimize an immediate threat of

serious harm or destruction to any highway, detour, or bridge due to rain, snow or other climatic conditions. Whether deterioration will cause serious damage or destruction to highways, detours, or bridges if permissible weights are not reduced is a factual question. Whether existing posted weight restrictions are necessary to prevent or minimize an immediate threat of serious harm or destruction to a highway, detour or bridge due to rain, snow or other climatic conditions is also a factual question. The Attorney General is authorized to issue opinions on matters of law. [74 O.S. Supp.2000, § 18b\(A\)\(5\)](#). However, existing weight restriction postings need not be removed if they are necessary (i) to prevent serious damage or destruction to a highway, detour, or bridge which may be caused by deterioration, or (ii) to prevent or minimize an immediate threat of serious harm or destruction to a highway, detour, or bridge due to rain, snow, or other climatic conditions.

¶8 It is, therefore, the official Opinion of the Attorney General that:

- 1. Before county authorities can impose weight restrictions on highways, detours, and bridges under their jurisdiction due to rain, snow, or other climatic conditions, they must find an immediate threat of serious harm or destruction exists. County authorities are not required to find an immediate threat of serious harm or destruction exists when, by reason of deterioration, highways, detours, or bridges under their jurisdiction will be seriously damaged or destroyed unless the permissible weights of vehicles are reduced. 2001 Okla. Sess. Laws ch. 249, § 8 (amending [47 O.S. 1991, § 14-113](#)).**
- 2. Whether county authorities must remove existing weight limit signs from county roads, in light of Section 8 of Senate Bill 119, requires a factual determination as to whether the weight restrictions posted by such signs are necessary (i) to prevent serious damage or destruction to a highway, detour, or bridge which may be caused by deterioration, or (ii) to prevent or minimize an immediate threat of serious harm or destruction to a highway, detour, or bridge due to rain, snow or other climatic conditions. The Attorney General is authorized to issue opinions on matters of law. [74 O.S. Supp.2000, § 18b\(A\)\(5\)](#). However, existing weight restrictions posted on highways, detours, or bridges under the jurisdiction of county authorities need not be removed if the restrictions are necessary (i) to prevent serious damage or destruction to a highway, detour, or bridge which may be caused by deterioration, or (ii) to prevent or minimize an immediate threat of serious harm or destruction to a highway, detour, or bridge due to rain, snow, or other climatic conditions. 2001 Okla. Sess. Laws ch. 249, § 8 (amending [47 O.S. 2001, § 14-113](#)).**

W. A. DREW EDMONDSON
Attorney General of Oklahoma
JANIS W. PRESLAR
Assistant Attorney General

Title 47. Motor Vehicles ([Refs & Annos](#))

[Chapter 14.](#) Size, Weight and Load ([Refs & Annos](#))

➔ **§ 14-114. Liability for damage to highway or structure**

(a) The owner and operator of any motor vehicle who shall drive the same into any overpass or underpass and shall damage such overpass or underpass shall be absolutely liable to the owner or owners of such overpass or underpass thereby damaged for the amount of such damage, regardless of the height of such vehicle and regardless of the clearance in such overpass or underpass, and failure of such overpass or underpass to be sufficient in height to clear the vehicles hereby authorized shall not be a defense to any action for such damages. The provisions of this section shall be enforceable only in the event the overpass or underpass so damaged has a sign on each side thereof clearly legible and correctly stating the clearance thereof in feet and inches.

(b) The driver, owner, and any other person, firm or corporation responsible for a vehicle being on the highways or county roads of this state shall be responsible for all damages which said highways, including the bridges, pavement and all other public property thereon, may sustain as a result of a violation of the provisions of this or any other chapter regulating the usage of the highways, or as a result of the negligent or improper operation of said vehicle, and the county or state agency having charge of said highway may recover the amount of such damages in an action for damages.

The owner, driver, and any other person, firm or corporation responsible for any vehicle operating under an overweight or oversize permit shall be responsible for any damages to highway bridges or roads caused by the operation of such vehicle, whether caused by negligence or not, and no further permits shall be issued to such owner or operator until payment has been made for such damages. The amount of such damages may be recovered in an action for damages brought by the county or state agency having charge of said highway. The issuance of any special permit shall not be considered a warranty of any bridge or highway to support the permitted load.

NOTES OF DECISIONS

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[1.](#) Construction and application

Word "improper" in statute providing that driver and owner of vehicle is responsible for all damage which highways, including bridges and other public property thereon, may sustain as result of negligent or improper operation of vehicle has almost the same meaning as "negligent." [State ex rel. Dept. of Highways v. Sharpsteen, Okla., 538 P.2d 1044 \(1975\).](#) [Automobiles](#) [↔15](#); [Bridges](#) [↔27](#)

[2.](#) Persons liable

In action by the state against a partnership owning truck, truck driver, and lessee of equipment from partnership to recover for damage to bridge when struck by truck, court properly directed verdict as to lessee, where lessee at no time exercised any supervision or control over the truck driver, and though truck was being used to transport the equipment to the lessee, the accident occurred prior to date

when delivery was required. [State ex rel. Dept. of Highways v. Rumsey, Okla., 205 Okla. 307, 237 P.2d 448 \(1951\)](#). [Automobiles](#) [§15](#)

3. Negligence

Where defendant's truck, while operating under terms of oversized vehicle permit, collided with overhead bridge, defendant's liability was not grounded on negligence, but rather on statute; thus, trial court erred in instructing jury on negligence and contributory negligence. [State ex rel. Dept. of Highways v. Ray I. Jones Service Co., Okla., 475 P.2d 139 \(1970\)](#). [Bridges](#) [§27](#)

4. Strict liability

Statute providing that driver and owner of vehicle is responsible for all damage which highways, including bridges and other public property thereon, may sustain as result of negligent or improper operation of vehicle does not impose strict liability but makes liability for damage depend on negligent operation of vehicle so that proof of negligence is necessary to recovery. [State ex rel. Dept. of Highways v. Sharpsteen, Okla., 538 P.2d 1044 \(1975\)](#). [Automobiles](#) [§15](#); [Bridges](#) [§27](#)

5. Failure to maintain bridge in proper repair

In action by the state against owner and driver of truck for damage to bridge when struck by truck, instruction that it was duty of Department of Highways to maintain bridge for use of ordinary traffic on highway and to keep bridge repaired for such traffic and that if jury found from preponderance of evidence that Department of Highways failed to keep bridge in proper repair and that such failure or negligence of Department of Highways was proximate or contributed to proximate cause of damages complained of, then jury, should find for owner and driver of truck, was proper. [State ex rel. Dept. of Highways v. Rumsey, Okla., 205 Okla. 307, 237 P.2d 448 \(1951\)](#). [Automobiles](#) [§15](#)

6. Damages

In action by the state against owner and driver of truck for damage to bridge when struck by truck, measure of damages was the actual and reasonable cost of repair to the bridge in order to restore it to its condition prior to the injury. [State ex rel. Dept. of Highways v. Ray I. Jones Service Co., Okla., 475 P.2d 139 \(1970\)](#); [State ex rel. Dept. of Highways v. Rumsey, 205 Okla. 307, 237 P.2d 448 \(1951\)](#).

Despite state's evidence calculated to show that tractor-trailer truck was driven upon bridge with dump bed partially elevated so that front of bed struck overhead steel portal, causing portal to bend forward and pull steel posts inward so that they lost ability to support bridge and truck so that bridge span broke and collapsed, evidence presented by truck owner and driver and showing, inter alia, that trailer bed was not elevated and that bridge was old, rusted, in poor repair and had serious defects supported judgment for driver and owner in action by state to recover for damage to bridge. [State ex rel. Dept. of Highways v. Sharpsteen, Okla., 538 P.2d 1044 \(1975\)](#). [Bridges](#) [§27](#)

Defendant in action by state to recover for damage to its bridge would be allowed to submit evidence relating to actual and reasonable cost of repairing bridge by responsible contractor, directed to total cost of repairing bridge by one deemed to be qualified and responsible bidder rather than to costs of one, or perhaps several, line items. [State ex rel. Dept. of Highways v. Ray I. Jones Service Co., Okla., 475 P.2d 139 \(1970\)](#). [Bridges](#) [§27](#)

The driver or owner of a vehicle which exceeds the posted weight limit on a county section line road bridge may be held liable under statute for any damages caused by such vehicle to a county section line road bridge by reason of exceeding such weight limit. Op. Atty. Gen. No. 82-2 (Feb. 19, 1982).

7. Consequential damages

Damage to highway bridges or roads allowable against parties responsible therefor, pursuant to this section may include consequential damages such as temporary repairs, detour, and administrative costs incurred as result of the accident. [State ex rel. Dept. of Highways v. Ray I. Jones Service Co., Okla., 475 P.2d 139 \(1970\)](#).

In action by the state against owner and driver of truck for damage to bridge when struck by truck, the state was not entitled to recover the cost of a temporary pontoon bridge. [State ex rel. Dept. of Highways v. Rumsey, Okla., 205 Okla. 307, 237 P.2d 448 \(1951\). Bridges](#) 27

8. Criminal penalties

Exceeding the posted weight limit on a bridge on a county section line road is a misdemeanor criminal offense punishable under § 14-117 of this title. Op.Atty.Gen. No. 82-2 (Feb. 19, 1982).

The county sheriff or his deputy is the appropriate county official to effectuate a lawful arrest of a person violating a posted weight limit on a county section line road bridge. Op.Atty.Gen. No. 82-2 (Feb. 19, 1982).