

**OP. NO. 04-050**

**MOTOR VEHICLES: MOTOR VEHICLE AND EQUIPMENT SAFETY –  
PERMITS FOR EXCESSIVE SIZE AND WEIGHT.**

**Weight limitation and 50-mile restriction prescribed for trucks hauling gravel, sand, or crushed stone apply only in coal severance counties. No prohibitions or restrictions imposed on packaging of gravel, sand, or crushed stone.**

The Honorable Phillip P. Puckett  
Member, Senate of Virginia  
August 13, 2004

**Issues Presented**

You ask whether § 46.2-1143(H) applies only to counties that impose the severance tax authorized by § 58.1-3712<sup>1</sup> ("coal severance counties"). You next inquire concerning packaging of the materials addressed in § 46.2-1143(H) for delivery.<sup>2</sup> Section 46.2-1143(H) prescribes weight and mileage limitations for trucks hauling gravel, sand, or crushed stone in coal severance counties.

**Response**

It is my opinion that the weight limitation and 50-mile restriction prescribed in § 46.2-1143(H) for trucks hauling gravel, sand, or crushed stone apply only in coal severance counties. Section 46.2-1143(H) imposes no prohibitions or restrictions on the packaging of gravel, sand, or crushed stone.

**Background**

You relate that there is confusion regarding the application of § 46.2-1143(H) to trucks hauling gravel, sand, or crushed stone in certain counties. You request clarification concerning delivery of these materials outside coal severance counties.

**Applicable Law and Discussion**

Section 46.2-1143(H) prescribes weight and mileage limitations for trucks hauling gravel, sand, or crushed stone in coal severance counties:

Until July 1, 2007, in counties that impose a severance tax on coal and gases as authorized by § 58.1-3712, the weight limits prescribed in subsection B<sup>[3]</sup> of this section shall also apply to trucks hauling gravel, sand, or crushed stone no more than 50 miles from origin to destination.

Prior to July 1, 1999, § 46.2-1143(A) provided a mechanism for "[t]he Commonwealth Transportation Commissioner and local authorities of cities and towns in their respective jurisdictions" to issue overweight permits for the

operation of vehicles "used exclusively for hauling coal from a mine or other place of production to a preparation plant, loading dock, or railroad."<sup>4</sup> Effective July 1, 1999, the General Assembly added subsection H to § 46.2-1143, to allow the increased weight limits described in subsection B to "*apply to trucks hauling gravel, sand, or crushed stone no more than fifty miles from origin to destination*" in coal severance counties.<sup>5</sup> Section 46.2-1143(H) is clear that the increased weight limit prescribed by § 46.2-1143(B) applies only in coal severance counties and the 50-mile trip "from origin to destination" traverses coal severance counties only.

The General Assembly did not require the conditions contained in other subsections of § 46.2-1143 to apply to trucks hauling gravel, sand, or crushed stone, nor has the General Assembly limited how these materials may be physically transported in a truck. As such, the manner in which the gravel, sand, or crushed stone is packaged within the truck should not place the truck in violation of § 46.2-1143(H).<sup>6</sup>

### **Conclusion**

Accordingly, it is my opinion that the weight limitation and 50-mile restriction prescribed in § 46.2-1143(H) for trucks hauling gravel, sand, or crushed stone apply only in coal severance counties. Section 46.2-1143(H) imposes no prohibitions or restrictions on the packaging of gravel, sand, or crushed stone.

<sup>1</sup>Section 58.1-3712 provides a mechanism for counties and cities to impose a severance tax on coal and gases.

<sup>2</sup>You also inquire concerning the different types of materials and products allowed by the statute. Section 46.2-1143(H) mentions only "gravel, sand, or crushed stone." Whether a particular material or commodity is considered gravel, sand, or crushed stone is a factual determination. The authority of the Attorney General to issue official advisory opinions is limited to questions of law. See Op. Va. Att'y Gen.: 1999 at 132, 132; 1986-1987 at 1, 6; 2 A.E. Dick Howard, Commentaries on the Constitution of Virginia 668 (1974) ("Giving ...opinions on matters of law is a ... major responsibility of the Attorney General.").

<sup>3</sup>Section 46.2-1143(B) sets forth axle and maximum gross weight restrictions for vehicles hauling coal.

<sup>4</sup>1999 Va. Acts ch. 915, at 1769, 1769-70.

<sup>5</sup>*Id.* at 1770 (quoting § 46.2-1143(H)).

<sup>6</sup>An owner or operator of a truck hauling sand, gravel, or crushed stone is subject to the penalties authorized under § 46.2-113 only for a violation of the weight limits prescribed in § 46.2-1143(B). Va. Code Ann. § 46.2-1143(H) (LexisNexis Supp. 2004).