



COMMONWEALTH of VIRGINIA

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Mr. Ronald S. Hallman
City of Chesapeake Attorney
306 Cedar Road
Chesapeake, Virginia 23322

Dear Mr. Hallman:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

Issue Presented

You ask whether fire-fighting equipment operated by the city of Chesapeake is exempt from the posted weight limitations on weight-restricted bridges pursuant to § 46.2-1102(A).

Response

It is my opinion that § 46.2-1102(A) exempts fire-fighting equipment from the general size limitations specified in Articles 14 through 17, Chapter 10 of Title 46.2, but does not exempt the equipment from the general weight limitations. Specifically, it is my opinion that § 46.2-1102(A) does not exempt fire-fighting equipment from weight limits that have been established for bridges and prescribed and posted by the Commonwealth Transportation Commissioner pursuant to § 46.2-1104.

Background

You relate that a local dispute has arisen regarding fire-fighting equipment crossing weight-restricted bridges. You note that the Department of State Police believes fire-fighting equipment that exceeds the posted weight limit for a bridge may not cross the bridge under any circumstances. You state that the Chesapeake Fire Department asserts that § 46.2-1102(A) exempts its equipment from such weight restrictions.

Applicable Law and Discussion

Section 46.2-1101 provides that “[t]he maximum *size and weight* of vehicles *specified in* Articles 14 through 17 (§ 46.2-1101 et seq.) of [Chapter 10] shall apply throughout the Commonwealth. Local authorities shall not alter such limitations except as expressly authorized in [Title 46.2].” (Emphasis added.)

Section 46.2-1102(A) provides that:

The *vehicle size limitations contained in* Articles 14 through 17 (§ 46.2-1101 et seq.) of [Chapter 10] shall not apply to any farm machinery or agricultural multipurpose drying unit when such farm machinery ... is temporarily propelled Nor shall *those limitations* apply to fire-fighting equipment of any county, city, town, or fire-fighting company or association. [Emphasis added.]

I note that while § 46.2-1101 refers to both “size and weight,” § 46.2-1102 refers only to “size limitations.” Articles 14 through 17 specify a number of size and weight limitations that are applicable throughout the Commonwealth. Section 46.2-1104, however, provides that the Commonwealth Transportation Commissioner may reduce the statutorily prescribed weight, width, height, and length limits for any vehicle that passes over any bridge where “an engineering study discloses that it would promote the safety of travel or is necessary for the protection of any such highway.” Additionally, § 46.2-1104 requires that signs stating the reduced limits be posted and provides that “[i]t shall be unlawful to operate a vehicle or combination of vehicles on any public highway or section thereof when the weight, size, or speed thereof exceeds the maximum posted by authority of the Commonwealth Transportation Commissioner or local authorities pursuant to this section.”¹

Any violation of § 46.2-1104 constitutes a Class 2 misdemeanor.² “Furthermore, the vehicle or combination of vehicles involved in such violation may be held upon an order of the court until all fines and costs have been satisfied.”³

Violations of the reduced limits established by § 46.2-1104 are considered criminal offenses.⁴ Because the reduced limitations established under § 46.2-1104 are based on specific facts regarding safety, the General Assembly treats such violations more seriously than violations of general weight limitations.⁵

In my opinion, the General Assembly did not intend that § 46.2-1102(A) would exempt fire-fighting equipment or farm machinery from reduced weight limitations established and posted by the Commonwealth Transportation Commissioner pursuant to § 46.2-1104.

The exemption language of § 46.2-1102(A), “vehicle size limitations contained in Articles 14 through 17 ...shall not apply,” does not, by its terms, include weight limitations. The other three provisions of Article 14⁶ specifically reference size *and weight*. Since Article 17 is entitled “Maximum

¹Section 46.2-1104 grants local authorities a similar authority to reduce weight limits. For purposes of this opinion, I assume that the bridges in question have been properly posted pursuant to the appropriate authority.

²The punishment for a Class 2 misdemeanor is set out in § 18.2-11(b).

³VA. CODE ANN. § 46.2-1104 (2005).

⁴See, e.g., § 46.2-1131 (2005) (imposing civil penalty for violation of general weight limits in Chapter 10); § 46.2-1133(7) (2005) (providing that contested alleged weight violation is tried as civil case).

⁵The reason is self-evident. Weight-restricted bridges, which were built years ago, generally have deteriorated to the point that they are no longer be able to carry the weight load for which they originally were designed.

⁶See §§ 46.2-1101, 46.2-1103, 46.2-1104 (2005).

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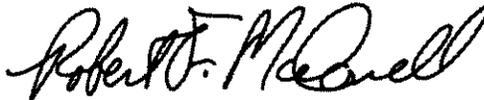
Vehicle Weights,” one might argue that the exemption also extends to the weight limitations in Article 17. Section 1-217, however, provides that the headlines of statutes “are intended as mere catchwords to indicate the contents of the sections and do not constitute part of the act of the General Assembly.” Additionally, the history of the exemption in § 46.2-1102(A) indicates that the General Assembly did not intend the exemption to apply to weight limitations.⁷

Conclusion

Accordingly, it is my opinion that § 46.2-1102(A) exempts fire-fighting equipment from the general size limitations specified in Articles 14 through 17, Chapter 10 of Title 46.2, but does not exempt the equipment from the general weight limitations. Specifically, it is my opinion that § 46.2-1102(A) does not exempt fire-fighting equipment from weight limits that have been established for bridges and prescribed and posted by the Commonwealth Transportation Commissioner pursuant to § 46.2-1104.

Thank you for letting me be of service to you.

Sincerely,



Robert F. McDonnell

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⁷The 1950 Session of the General Assembly, which amended and reenacted the exemption for fire-fighting equipment and farm machinery, provided that the “limitations as to size of vehicles stated in this section and §§ 46-327 to 46-330.” 1950 Va. Acts ch. 505, at 982, 982 (quoting § 46-326). Section 46-326 related only to “size” and not to “weight.” Thus, it is clear that fire-fighting equipment and farm machinery were not exempt from weight limitations. In 1958, the General Assembly recodified Title 46, including the recodification of the exemption in § 46-326 as § 46.1-332. See 1958 Va. Acts ch.541, at 685, 758. Section 46.1-332 provided an exemption for farm machinery and fire-fighting equipment from “[t]he limitations upon size of vehicles prescribed in §§ 46.1-328 through 46.2-330 and §§ 46.1-333 and 46.1-334.” *Id.* (quoting § 46.1-332). The 1989 Session of the General Assembly recodified Title 46.1. See 1989 Va. Acts ch. 727, at 1718, 1718-1927. Section 46.2-1102, formerly § 46.1-332, provided that:

“The vehicle size limitations contained in Articles 14 through 17 (§ 46.2-1101 et seq.) of this chapter shall not apply to farm machinery when such farm machinery is temporarily propelled ... in the ordinary course of business. Nor shall those limitations apply to fire-fighting equipment of any county, city, town, or fire-fighting company or association.”

Id. at 1863-64. Thus, the substantive meaning of the exemption in existence since 1950 has not been changed or expanded to include weight limitations.