

VEHICLE AND TRAFFIC LAW, ART 9, §§ 375, 1600, 1604, 1640;
15 NYCRR §§ 41.1, 41.2, 53.

A Village is not authorized to enact a local law prohibiting, except in cases of emergency, the use within the Village of truck engine compression brakes.

October 13, 1999

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Village of Greenwich
P. O. Box 184
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Informal Opinion
No. 99-29

Dear Mr. Catalfimo:

You have asked whether the Village may enact a local law prohibiting, except in cases of emergency, the use within the Village of truck engine compression brakes. You have advised us that the engine compression brakes create a "very loud and distinctive noise" and that the Village Board recently has received a number of complaints about this noise from several residents whose homes or businesses abut heavily traveled truck routes. You note that drivers of large trucks frequently use engine compression brakes to slow the vehicles without engaging the truck's mechanical brakes in order to reduce wear and tear on the mechanical brakes.

We conclude that the Village is not authorized to enact such a local law. Regulation of use of the streets and highways by operators of motor vehicles has long been governed by State law except to the extent that the Legislature delegates power to local governments. Vehicle and Traffic Law §§ 1600, 1604; People v Grant, 306 NY 258 (1954). The Vehicle and Traffic Law contains comprehensive provisions governing equipment for motor vehicles operated upon the public highways of the State. Vehicle and Traffic Law Article 9. The Commissioner of Motor Vehicles is directed to establish standards for brake efficiency. All vehicles are required to have adequate brakes; trailers and semi-trailers over specified weights also must have adequate brakes. Vehicle and Traffic Law § 375(1); see also, 15 NYCRR §§ 41.1, 41.2, 53 (establishing standards for service brakes, auxiliary brakes and brake linings). These provisions do not restrict truck drivers' use of engine compression brakes. Because State

law regulates this subject, without a delegation of authority to villages, regulation of truck brakes by your Village is preempted. People v Grant, 306 NY 258, 260 (1954).

The Legislature has not delegated authority to villages to regulate this subject. Vehicle and Traffic Law § 1640 provides that villages may enact local laws with respect to specified subjects. For example, that section authorizes villages to exclude trucks from certain highways and to designate truck routes within village boundaries. Vehicle and Traffic Law § 1640(5),(10). It does not, however, empower villages to either prohibit or require the use of particular types of truck brakes or other equipment. In our view the proposed local law would be preempted by the provisions of the Vehicle and Traffic Law. Id., §§ 1600, 1604.

The Attorney General renders formal opinions only to officers and departments of State government. This perforce is an informal and unofficial expression of the views of this office.

Very truly yours,

SIOBHAN S. CRARY
Assistant Solicitor General