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ARIZONA ATTORNEY GENERAL

March 5, 1959

Honorable Benjamin L. Arnold, Sr.
 State Senator
 Twenty-Fourth Legislature
 State Capitol Building
 Phoenix, Arizona

Dear Senator:

You have asked our answer to the following question:

Is a baggage master required on trains carrying baggage only in sealed cars, the baggage not being handled?

Section 40-881 A.R.C. relates to the use of baggage-masters, and sets forth the following language:

"C. A passenger, mail or express train composed of six or more cars, when operated outside yard limits shall carry a crew consisting of not less than one engineer, one fireman, one conductor, one baggage-master, one flagman and one brakeman."

That section, standing alone, would require a baggage-master on any and all passenger trains of six or more cars. It is our understanding that a "baggage-master" duties require that he have actual charge of the baggage within a car while it is in transit. However, the Legislature, recognizing that a baggage-master would be useless on trains carrying no baggage, made an exception. The exception is embodied in Section 40-883 B.:

"B. No baggage master shall be required in the operation of a train upon which baggage is not carried."

Honorable Benjamin L. Arnold, Sr.
Page -2-

March 5, 1959

It is our information that a "sealed" baggage car means, in the industry, one which is locked and no baggage master or other person is in the car or enters the car between designated points. In other words, the car is not opened or "worked," until it reaches a pre-determined destination. It would, accordingly, require the performance of a useless, if not impossible, thing to state that in such instances a baggage master is required.

Courts have long held that a statute which requires the doing of a futile, impossible or useless thing will not be enforced nor so construed if another interpretation will bring about a reasonable result. There can be no question but that the Legislature did not intend to require baggage masters on trains not carrying baggage. For that reason, the exception in Section 40-283 B. was enacted.

Similar reasoning must be applied to the situation arising out of the use of sealed baggage cars. It would be a futile, impossible and useless thing to require a baggage master under the conditions outlined in your question.

It is our opinion that the courts of our state, in the light of the existing exception relating to non-baggage-carrying trains, would refuse to uphold a contention that a baggage master is required on trains carrying baggage only in sealed cars.

Consequently, we fail to see the necessity of enacting H.B.295.

Respectfully yours,


WADE CHURCH
The Attorney General

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