

*Birmingham*  
*Bartlett*  
*Hunter*  
**LAW LIBRARY**  
**ARIZONA ATTORNEY GENERAL**

November 9, 1954  
Letter Opinion  
No. 54-254-L

The Honorable Joseph Brooksley  
Justice of the Peace  
Fredonia, Arizona

Re: Interpretation of Section 57-109,  
A.C.A. 1939, as amended.

Dear Judge Brooksley:

We are in receipt of your letter of October 26, 1954, inquiring as to what crime has been committed when a person is riding down a road, sees a deer, jumps from the car onto the road and shoots and kills the deer. Your letter further indicates that the hunter has a valid hunting license and the proper tag in his possession.

Pertaining to the taking of game animals, Section 57-109, A.C.A. 1939, as amended, provides, in part:

\* \* \* \* \*

"\* \* \*nor shall game birds or game animals be hunted, pursued, shot at or taken from any vehicle, automobile, aircraft, powerboat, sailboat, and boat under sail, or any floating device towed by powerboat or sailboat; nor shall any person shoot any firearm upon, from, across or into any public highway or railway. \* \* \*"

It is well settled by the courts that in the interpretation of any statute the legislative intent is the all-important and controlling factor. Accordingly, the primary rule of construction of statutes is to ascertain the intent of the legislature. 50 Am. Jr., Statutes, Sec. 223.

Considering the language used by the legislature in Section 57-109, supra, it may be noted that in one phrase the enactment makes it unlawful for game animals to be hunted, pursued, shot at or taken from any automobile. In another separate and distinct phrase the legislature has specified that it is unlawful for any person to shoot

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a firearm from a public highway. No provision is made in this latter phrase making it unlawful to shoot a game animal from the highway. The crime prohibited is the shooting of a firearm from the public highway, whether a game animal is taken or not.

It is our considered opinion, therefore, that under the facts presented the individual is guilty of the crime of shooting a firearm from a public highway and is not guilty of illegally taking a game animal.

We hope the above information will be of assistance to you.

Sincerely yours,

WILLIAM T. BIRMINGHAM  
Assistant to the  
Attorney General

WTB:elf  
cc: Mr. Cliff Sorrells  
Chief Law Enforcement Officer  
State Game and Fish Commission  
Capitol Building Annex  
Phoenix, Arizona