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Opinion No. 63-6-L
R-56
December 12, 1962

REQUESTED BY: JOHN HAUGH
House of Representatives

OPINION BY: ROBERT W. PICKRELL
The Attorney General

QUESTION: Assuming that an additional gasoline tax of one cent per gallon is imposed by adding a new section or new article of law to Title 28, Chapter 9, Arizona Revised Statutes does the additional tax have to conform to that part of Article 9, Section 14, Constitution of Arizona which provides ". . . for distribution to counties, incorporated cities and towns in an amount not less than as provided by law on July 1, 1952. . .?"

ANSWER: Yes.

The reason is clear and without doubt. Article 9, Section 14 of the Arizona Constitution provides:

"§14. Use and distribution of vehicle and gasoline tax receipts

Section 14. No moneys derived from fees, excises, or license taxes relating to registration, operation, or use of vehicles on the public highways, or to fuels used for the propulsion of such vehicles, shall be expended for other than cost of administering such laws, statutory refunds and adjustments provided therein, payment of highway obligations, cost of construction, reconstruction, maintenance and repair of public highways and bridges, county, city and town roads and streets, and for distribution to counties, incorporated cities and towns in an amount not less than as provided by law on July 1, 1952, to be used by them only for the purposes permitted by law on that date, expense of state enforcement of traffic laws, and payment of costs for publication and distribution of Arizona Highway Magazine, provided, however, that this section shall not apply to moneys derived from the automobile license tax imposed under section 11 of Article IX

Opinion No. 63-6-L
R-56
December 12, 1962
Page - 2 -

of the Constitution of Arizona. Added, election Nov. 4, 1952, eff. Nov. 24, 1952."

The additional tax does not have to conform to Article 9, Section 14 of the Arizona Constitution if the tax is upon gasoline that will not be used for the propulsion of vehicles on public highways. See A.R.S. § 28-1502 as amended. Otherwise, the additional tax does have to conform.

New legislation may revise the distribution required by law on July 1, 1952 to increase, but not to decrease, the proportion or share of counties, incorporated cities, and towns, as against the state's share.



ROBERT W. PICKRELL
The Attorney General

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