

DARRELL F. SMITH, THE ATTORNEY GENERAL
STATE CAPITOL
PHOENIX, ARIZONA

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

October 4, 1967

DEPARTMENT OF LAW LETTER OPINION NO. 67-35-L (R-107)

REQUESTED BY: R. F. CASTRO, Ass't Supt.
Motor Vehicle Division

QUESTION: May watercraft owners file application
for watercraft registration and fees
directly with the Motor Vehicle Division
instead of the County Assessors?

ANSWER: Yes.

A.R.S. § 5-306.05A states:

"The owner of each watercraft requiring
numbering by the state shall file an
application for number with the Arizona
motor vehicle division. . . . "
(Emphasis supplied).

A.R.S. § 5-306.05E states:

"The motor vehicle division may award
any certificate of number directly or
may authorize any person to act as agent
for the awarding thereof. In the event
a person accepts such authorization, he
may be assigned a block of numbers and
certificates therefor which upon award,
in conformity with this article and with
any rules and regulations of the motor
vehicle division, shall be valid as if
awarded directly by the motor vehicle
division." (Emphasis supplied).

The Boating and Watersports Bill (Title 5, Chapter 3)
was passed in 1958. Under the authority of A.R.S. § 5-306.05E,
the Arizona Motor Vehicle Division could process registrations
themselves or designate agents to conduct this operation. Accord-
ing to the information furnished this office, the Motor Vehicle

Division authorized Boat Dealers to act as the Department's agents and issued blocks of numbers to such dealers. These were then in turn re-issued to the boating public.

The Legislature amended Title 5, Chapter 3 in 1966 and one of the new provisions allowed the county assessor to retain fifty cents of ". . . each such fee. . ." they collected in processing boat registrations. The fifty cents was to be deposited in the county general fund. Although this system, which was designed to be an additional means of local revenue, and which was sponsored by the Motor Vehicle Division, we are advised that it has proven to be dissatisfactory to all those involved in its administration.

A.R.S. § 5-306.05A requires boat owners to ". . . file an application with the Arizona motor vehicle division. . ." and ". . . the motor vehicle division shall enter the same upon the records of its office and issue to the applicant a certificate of number. . ." A.R.S. § 5-314 specifies that the superintendent of motor vehicles shall deposit the fees received under this chapter. A.R.S. § 5-322(A) provides: "All watercraft customarily kept in this state shall be registered with the Arizona motor vehicle division. . ." (Emphasis supplied). A.R.S. §§ 5-322 (D) and (E) provide:

"D. Upon payment of a registration fee, the motor vehicle division shall issue a certificate as evidence of registration which shall be displayed in or on the watercraft at all times in the manner prescribed by the department."

"E. Upon satisfactory proof of the loss or destruction of the registration certificate, the motor vehicle division shall issue a duplicate thereof to the owner upon payment of a fee of one dollar." (Emphasis supplied).

A.R.S. § 5-325 provides:

"Monies received from the taxes imposed under the terms of this article shall be

Opinion No. 67-35-L
(R-107)
October 4, 1967
Page Three

deposited by the motor vehicle division
to the state lake improvement fund to
be used as prescribed by the terms of
§ 5-315."

A reading of Title 5, Chapter 3, clearly shows that the Motor Vehicle Division is primarily responsible for the administration of this chapter. Any ambiguity arises from the Legislature's specific mention of the rights and duties of the county assessors in their collection of these monies. As was stated in Attorney General's Opinion No. 67-4, December 28, 1966, ". . . it is apparent that the Legislature intended that the county assessors act as the agents of the Motor Vehicle Division. . . ." However, the Legislature did not repeal or in any way amend subsection E of A.R.S. § 5-306.05 since its original enactment which has always provided that the Motor Vehicle Division may select any person to act as its agent. This failure to amend or repeal subsection E illustrates a definite intention not to bind or limit the Motor Vehicle Division to usage of the county assessors as their sole agents in administration. Had the Legislature intended to appoint the county assessors as the Motor Vehicle Division's agents to the exclusion of all others, then they surely would have made this explicit by repealing subsection E instead of readopting it. It follows that if the Motor Vehicle Division may choose any person to act as its agent, the Division may indeed choose not to appoint any person and thus administer the act itself.

"Statutes are to be construed as a whole, and related provisions in pari materia are to be harmonized if possible, . . ." State v. Arizona Corporation Commission, 94 Ariz. at p. 108, 109.

Also, see State Board of Technical Registration v. McDaniel, 84 Ariz. 237, 326 P.2d 348 which provides that a construction of a statute should be favored which will render every word operative rather than a construction which makes some words idle and nugatory. Every part of a statute must be given meaning and effect if possible to do so.

Opinion No. 67-35-L

(R-107)

October 4, 1967

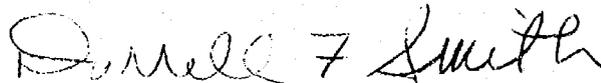
Page Four

Applying these rules of statutory construction, the only reasonable conclusion is that the Legislature intended that the county assessors could act as the Motor Vehicle Division's agent, but did not go so far as to require the Motor Vehicle Division to use the county assessors in this capacity. Any other construction would not be harmonizing the provisions by construing them in pari materia, and would render subsection E idle and nugatory.

We, therefore, conclude that watercraft owners may file application for watercraft registration and fees directly with the Motor Vehicle Division if the Motor Vehicle Division chooses to process the same rather than appoint an agent to act in their behalf. However, if the Motor Vehicle Division chooses to utilize the county assessors as its agent for collection of Title 5, Chapter 3 fees as intended by the Legislature, the county assessors will be entitled to the fees and subject to the duties set out in these statutes.

If this interpretation should cause the Motor Vehicle Division and the assessors any difficulty, then the solution lies in asking the Legislature to act in the premises in January.

Respectfully submitted,



DARRELL F. SMITH
The Attorney General

DFS:hc