December 2, 1953
Opinion No. 53-196

TO: William P. Mahoney, Jr
County Attorney of Maricopa County

RE: Section 66-153r (c), A.C.A. 1939
1952 Cumulative Supplement

QUESTION: Does Section 66-153r (c) A.C.A. 1939, 1952 Cumulative Supplement apply to accidents which occur on private property?

Section 66-152, A.C.A. 1939, 1952 Cumulative Supplement, provides as follows:

"66-152. PROVISIONS OF ACT REFER TO VEHICLES UPON THE HIGHWAYS-EXCEPTIONS.-The provisions of this Act relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except:

1. Where a different place is specifically referred to in a given section.

2. The provisions of Sections 39 to 55, inclusive, (§§ 66-153L--66-157), shall apply upon highways and elsewhere throughout the state." (Emphasis supplied)

Exception No. 2 above applies to the following sections:

66-153L.-Accidents involving death or personal injury.

66-153m.-Accidents involving damage to vehicle.

66-153n.-Duty to give information and render aid.

66-153o.-Duty upon striking unattended vehicle.

66-153p.-Duty upon striking fixtures upon a highway.

66-153q.-Immediate report of accidents.

66-153r.-Written reports of accidents.

66-153s.-When driver unable to report.

66-153t.-Accident report forms.

66-153u.-Penalty for failure to report.

66-153v.-Coroner's report.

66-153w.-Garages to report.

66-153x.-Accident reports confidential.

66-153y.-Department to tabulate and analyze accident reports.

66-154.-Any incorporated city may require accident reports.

66-155.-Negligent Homicide.

66-156.-Persons under the influence of intoxicating liquor or drugs.

66-157.-Reckless driving.

Section 66-153r, A.C.A. 1939, supra, provides:

"66-153r. WRITTEN REPORTS OF ACCIDENTS.-(a) The driver of a vehicle involved in an accident resulting in bodily injury to or death of any person or total property damage to an apparent extent of $50.00 or more shall, within 5 days after such accident, forward a written report of such accident to the department.

(b) The department may require any driver of a vehicle involved in an accident of which report must be made as provided in this section to file supplemental reports whenever the original report is insufficient in the opinion of the department and may require witnesses of accidents to render reports to the department.

(c) Every law enforcement officer who, in the regular course of duty, investigates a motor vehicle accident of which report must be made as required in this section, either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses shall, within twenty-four hours after completing such investigation, forward a written report of such accident to the department."

In the case of STATE v HAROLD, 74 Ariz. 210, 246 Pac. 2d 178, (July 16, 1952) the court held that the legislature had the authority under the police power of the state to regulate the operation and control of automobiles <u>wherever</u> they may be within the borders of the state and that the enactment of Section 66-156 and Section 66-157,

A.C.A. 1939, Supra, was a valid exercise of the police power of the state, and in so holding the court said, at 246 Pac. 2d, 181:

> "The advent of millions of automobiles upon the highways of the state and nation in recent years and the rapidly increasing death toll that is being taken as a result of their operations thereon has made it mandatory that regulatory measures be taken to remove insofar as possible the causes contributing to this useless waste of human life and property. It appears to us to be even more important for the legislature to prevent operators of cars who are under the influence of intoxicating liquors or who are at the time driving recklessly and in wilful and wanton disregard for the safety of persons or property from entering upon the highways and into the stream of traffic than to permit them to enter thereon and after a tragic accident has happened to punish them for maiming or causing the death of those who are lawfully in the use of such highways. It is frequently the entry upon the highway by reckless or intoxicated drivers that causes the death and destruction this law seeks to prevent. Even upon private property an intoxicated or reckless driver of an automobile is just as much a menace to himself or to anyone who may be lawfully thereon as he would be to those on a public highway. The only difference is in the degree.
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> Defendant next argues that in attempting to regulate the operation of automobiles at places other than on a public highway the legislature is exercising a power it does not possess. We held in WESTON v. STATE, 49 Ariz. 183, 65 Pac. 2d 652, that the drunk driving statute in existence at that time was a police regulation. Its effect was to regulate drunk driving upon public highways. The police power of a state is an attribute of sovereignty and inherent in every state independent of statute. It is founded upon the duty of the state to protect the lives, health, safety, morals and general welfare of society. We believe it to be the universal rule of the courts that so long as the legislature enacts laws reasonably necessary for the preservation of the public health, safety, morals or general welfare of the public it is acting within the police power of the state. What we said above with respect to the purpose, right and duty of

> the legislature to prevent incompetent drivers of motor vehicles, arising from any cause whatsoever, from operating automobiles upon public highways or elsewhere is equally applicable in determining whether the legislature was in the legitimate exercise of its police powers in incorporating Section 66-156 and 66-157, A.C.A. 1939, supra, in the act. We hold that it was. * * *"
> (Emphasis supplied)

As pointed out by the court in STATE v HAROLD, supra, it is frequently the entry upon the highway by the reckless and intoxicated drivers that causes the death and destruction this law seeks to prevent. It is apparent from the section headings listed above that Sections 66-153L through 66-154, A.C.A. 1939, supra, provide a means by which information is made available for the enforcement of Section 66-155, A.C.A. 1939, supra, covering negligent homicide, Section 66-156, A.C.A. 1939, supra, covering persons under the influence of intoxicating liquor or drugs, and Section 66-157, A.C.A. 1939, supra, covering reckless driving. The information required by these reports is also important in the enforcement of Section 66-201, A.C.A. 1939, supra, which provides for the discretionary suspension and revocation of drivers' licenses, and Section 66-1305, A.C.A. 1939, supra, which is the Financial Responsibility Act.

It would, indeed, be a novel construction of Section 66-152, A.C.A. 1939, supra, and 66-153L, A.C.A. 1939, supra, through 66-157, A.C.A. 1939, supra, to say that the legislature has provided for penalties for certain acts upon the highways and elsewhere throughout the state, but that there is to be no investigation or report where these certain acts occur elsewhere than upon the highways.

It is our opinion that Section 66-152, A.C.A. 1939, 1952 Cumulative Supplement, specifically provides that Section 66-153r (c) is applicable upon private property.

Very truly yours

ROSS F. JONES
The Attorney General

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JAMES E. HUNTER
Assistant to the
Attorney General