September 22, 1934.

Mr. E. V. Miller,
Engineer of Plans,
State Highway Department,
Phoenix, Arizona.

Dear Mr. Miller:

In response to your letter of September 18th, in which you request my opinion as to the legality of the installation on state and county highways of certain cautionary signs by Myers-Lieber Company of Phoenix, I advise you as follows;

Section 1561, Revised Code of Arizona, 1928, relating to the powers and duties of the State Highway Commission, provides in part as follows;

> "exercise complete and exclusive control and jurisdiction of the state highways, and prescribe such rules and regulations to govern the use of all state highways as it may deem necessary for public safety and convenience, and to prevent the abuse, and unauthorized use of such highways;
>
> "prescribe standard board and road signs, or other devices, and provide a uniform system of marking and signaling, on all state routes and state highways, and regulate the use of advertising sign boards and road signs on state or state highways; * * * * * * * * * *"

Section 1573, Revised Code of Arizona, 1928, provides in part as follows;

> "It shall be unlawful and it is a public nuisance for any person to make any encroachment, or to place any obstruction upon, or to make any use of, or to otherwise occupy any highway of the state or its legal subdivisions for any purpose other than authorized public travel, communication, transportation, or transmission, and any

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such act may be abated by injunction, and be the subject of an action for damages or other relief. Any person who shall encroach upon, obstruct, use, occupy, damage, or otherwise interfere with any public highway, or any public bridge, causeway, viaduct, trestle or dam, unless authorized by the commission, or by the proper local authorities, if same is not a state highway, or structure; * * * * * * "

In view of the foregoing provisions of our law, I am of the opinion that in so far as county highways are concerned the State Highway Commission has no jurisdiction over the placing of signs upon the rights of way of such highways, this being a matter entirely within the jurisdiction of the boards of supervisors of the various counties.

In so far as state highways, state routes and state roads are concerned, it is one of the duties of the Arizona State Highway Commission to prescribe a uniform system of marking and signaling upon such highways. Therefore, if the Commission has heretofore established a uniform system of marking and signaling for these highways in order that Myers-Lieber Company may install the cautionary signs proposed by them, it will be necessary for such company to obtain the permission of the State Highway Commission to do so. In order to allow the erection of any structure or sign within the confines of the right of way of a state highway, it is necessary under the provisions of Section 1573 to obtain the permission of the Highway Commission to do so.

Very truly yours,

Attorney General,

By

JHM/dn

Assistant Attorney General.