

November 18, 1938

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ARIZONA ATTORNEY GENERAL

Mr. Howard S. Reed
State Highway Engineer
Phoenix, Arizona

Dear Mr. Reed:

This opinion will be limited to the authority of the highway patrol and the highway commission and its state engineer over so-called zoning of state highways, and the establishment of speed limits within such zones.

The question of who shall post zoning signs we consider of no serious importance.

To get a clear view of the situation it is advisable to consider the provisions of law as they existed from time to time. We cannot take one section and deduce an opinion from it, but must take all sections and work out a solution from them all.

The original highway commission act, passed in 1927, defines, in Section 1561, the powers and duties of the commission. Subdivision 6 of the section is 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;"

Subdivision 7 relates to standard board and road signs, marking, signals, etc., which at the time related to the usual road signs made use of upon the highways. In the chapter on highways there is no suggestion of zoning highways or limiting speed rates other than as contained in Section 1587, which places limited speeds within school zones, residence zones, and the like, and then places a speed limit of thirty-five miles as

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and provides one method which may be followed in the zoning of highways. This is strengthened by the provision that the patrol division's acts must be approved by the commission, otherwise they will not become effective.

It would, therefore, appear that the patrol division has authority to investigate the highways, and when in the opinion of the superintendent zoning is required, to fix such zones and the speed limits upon each zone, and to submit the same to the highway commission. At the same time we do not believe that this authority takes away from the commission its jurisdictional powers to exercise complete and exclusive jurisdiction over state highways. Such being the case, we believe that the highway commission may, with or without the recommendation or consent of the patrol division, establish such zones, require the placing of signs thereon, and require the enforcement of the speed limits prescribed by the commission.

As to general control of the highway commission over the patrol division, you have our opinion of April 5, 1938, Mr. Riney Salmon's opinion of June 22, 1933, and the opinion of Mr. A. I. Winsett, dated January 7, 1936. With minor differences, these three opinions are in accord.

Very truly yours,

JOE CONWAY
Attorney General

A. R. LYNCH
Assistant Attorney General