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ARIZONA ATTORNEY GENERAL

March 10, 1939

Mr. W. R. Hutchins
State Highway Engineer
Phoenix, Arizona

Attention: W. T. Allen,
Patrol Superintendent

Dear Sir:

Your request for an opinion as to whether the highway patrol superintendent is authorized to issue commissions to individuals as highway patrolmen to serve without pay, has been considered by this division on several occasions.

Under Section 1672a of the 1936 Supplement, the patrol superintendent may appoint not to exceed one highway patrolman for each thirty-five hundred motor vehicles or fraction thereof registered during the preceding calendar year. Such patrolmen are vested with authority as peace officers for certain limited purposes. Their compensation is fixed by the state engineer, with the approval of the highway commission. There is no authority whatever for appointing any patrolmen in excess of the number authorized by the statute, whether they serve with pay or without pay. The question of compensation does not enter into the picture.

To issue complimentary commissions might result in serious consequences. The holder of such commission, attempting to enforce police regulations under the authority of the commission would not be afforded the protection given to duly authorized peace officers, and his action, if resulting in damage, might subject you on your bond for suit for damages.

We are definitely of the opinion that you should not attempt to issue commissions of the character suggested.

Very truly yours,

JOE CONWAY
Attorney General

A. R. LYNCH
Assistant Attorney General

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