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April 9, 1956
Opinion No. 56-77

REQUESTED BY: Honorable William P. Mahoney, Jr.
Maricopa County Attorney

OPINION BY: ROBERT MORRISON
The Attorney General

MELVIN J. MIRKIN
Assistant Attorney General

QUESTION: Who is responsible for issuing emergency vehicle permits, as provided under A.R.S. § 28-102, and who should bear the expenses in preparing and distributing same?

CONCLUSION: The Highway Commission, County Boards of Supervisors and City Councils are authorized to issue emergency vehicle permits. Any change must be in conformance with a valid ordinance, etc. of the issuing body.

A.R.S. § 28-102 states:

"'Authorized emergency vehicle' means vehicles of the fire department, police vehicles and such ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the commission or local authorities."

A.R.S. § 28-120 then defines local authorities in the following manner:

"'Local authorities' mean the county, municipal and other local board or body exercising jurisdiction over highways under the constitution and laws of this state."

From the foregoing, it is not clear whether a local board or body exercising jurisdiction over highways would include chiefs of police or sheriffs. The New Jersey case of Wohlgumeth Bus Company, et al, vs. Public Service Coordinating Transport, et al, 15 A.2d 596, leads us to believe that those individuals would not constitute a local board or body within the act. Moreover, previous to recodification, local authorities were defined as: " * * * any county, municipality or other local board or body, having authority of law to adopt local police regulations * * *." (Emphasis supplied) Sec. 66-401, ACA, 1939, as amended. It is clear that the various

sheriffs and chiefs of police do not adopt local police regulations, but instead merely enforce them. The codifier's note to A.R.S. § 28-120, supra, shows that the definition of local authority in Section 66-401, ACA, 1939, as amended, was deleted as unnecessary. Be that as it may, the deletion renders the language of the recodification somewhat vague.

It has been said that, where a recodification leads to an ambiguity, it is proper to refer to the previous code to ascertain the present meaning. State vs. Griffin, 58 Ariz. 187, 118 P.2d 676. In re Sullivan Estate, 38 Ariz. 387, 300 Pac. 193. Especially in view of the codifier's note, we believe that to be the proper procedure in this instance.

Therefore, it is the opinion of this office that the local authorities referred to are those empowered to adopt local police regulations, i.e., county boards of supervisors and city councils.

It must be observed that A.R.S. § 28-102 is not a mandate to these local agencies in that it does not give them licensing powers as such, but instead merely empowers them to designate ambulances, municipal vehicles or public service corporation vehicles as emergency vehicles. If any charge or license is to be obtained upon authorization, it must be pursuant to a valid ordinance, regulation, etc. of one of these local authorities.

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