



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

July 7, 1976

ATTORNEY GENERAL OPINION NO. 76-207

Mr. James L. Adkins
Major, North Region
Kansas Highway Patrol
State Office Building
Topeka, Kansas 66612

RE: Vehicles - Procedure and Penalties - Appearance Bonds

SYNOPSIS: A court may assess a fine in excess of that amount written on the notice to appear when a guaranteed arrest bond certificate is posted.

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Dear Mr. Adkins:

You inquire whether a court may assess a fine in excess of the amount written on the notice to appear when a guaranteed arrest bond certificate is posted instead of cash.

K.S.A. 1975 Supp. 8-2107 provides that under certain circumstances an officer who has halted any person for any violation specified in subsection (b) may require the person so halted to give bond in an amount fixed by the section:

". . . which bond shall be subject to forfeiture if said person halted does not appear at the court and at the time specified in the written notice provided for in K.S.A. 8-2106. Such bond may be a cash bond or a guaranteed arrest bond certificate issued by either 1) a surety company authorized to transact such business in this state or 2) an automobile club authorized to transact business in

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this state by the commissioner of insurance: Provided that such 'guaranteed arrest bond certificate' must be signed by the person to whom it is issued and must contain a printed statement that such surety company or automobile club guarantees the appearance of such person and will, in the event and failure of such person to appear in court at the time of trial, pay any fine or forfeiture imposed on such person not to exceed an amount to be stated on such certificate."

The purpose of the statute is to provide security for the appearance of the person halted for violation of the traffic laws of the state. Subsection (b) describes the offenses for which appearance bonds may be required as well as providing for the amount of the bond.

It is recognized that the purpose of bail bond is "to permit a person accused of crime, but whose guilt has not been established, to remain at large pending trial while ensuring so far as possible, that he will be present in court to meet the charges directed against him." State v. Midland Insurance Company, 494 P.2d 1228, 208 Kan. 886, 889 (1972). The nature of the offense is only one factor in determining bail and has no other relation to it. Therefore, it is our opinion that the fine assessed may exceed the amount of bail bond just as the amount of bail bond may exceed the fine assessed.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:DLW:en