

FILE

Subject

*Highways - Highway
Patrol - Duke Hawes*

Copy to



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

August 6, 1974

Opinion No. 74-264

Col. William L. Albott
Superintendent
Kansas Highway Patrol
State Office Building
Topeka, Kansas 66612

Dear Colonel Albott:

You inquire whether members of the Kansas Highway Patrol may accept employment to perform law enforcement duties at the Kansas State Fair, at Hutchinson, Kansas, and receive compensation therefor from the State Fair Board.

K.S.A. 1973 Supp. 74-2113 states in pertinent part thus:

"No member of the patrol shall hold any other commission or office, elective or appointive, except in the Kansas national guard or in the organized reserve of the United States army, air force or navy, or accept any other employment while he is a member of the patrol. No member of the patrol shall accept any compensation, reward or gift other than his regular salary and expenses as herein provided except with the written permission of the superintendent."

In an opinion dated April 2, 1968, Attorney General Robert Londerholm advised Colonel Woodson, then Superintendent of the Patrol, that a patrol member may sell merchandise during his off-duty hours, stating that "it is our opinion that pure self-employment of the kind described in your letter is not prohibited by this section." He continued thus:

"We believe that the word 'employment' as used here was intended by the legislature to describe participation in an employer-employee

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relationship. This legislative intent is indicated by the use of the word 'other' which implies a relationship similar to that between the patrol and one of its members."

The statute is expressly drawn to prohibit members of the Patrol from accepting any other employment. If a member of the Patrol accepts employment to perform law enforcement duties for the State Fair Board during the Fair on his days off or vacation time, and receives compensation therefor, he is doing that which the statute forbids, i.e., accepting employment other than and in addition to his employment with the Patrol.

Yours very truly,



VERN MILLER
Attorney General

VM:JRM:jsm