



STATE OF KANSAS

*Office of the Attorney General*

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

CURT T. SCHNEIDER  
Attorney General

September 19, 1975

ATTORNEY GENERAL OPINION NO. 75-372

Mr. O. A. Newton  
Van Bebber & Newton  
Post Office Box 586  
Troy, Kansas 66087

Re: Cities--School Zones--Speed Limits

Synopsis: The minimum permissible speed which may be fixed by local authorities for school zones in urban districts is that permitted by K.S.A. 1975 Supp. 8-1338(a) (4), twenty miles per hour.

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Dear Mr. Newton:

As City Attorney for the City of Troy, you inquire concerning the posted speed limit in school zones within the city. You advise that signs presently posted indicate a speed limit of 15 miles per hour and state only that it is a school zone. After reviewing K.S.A. 1974 Supp. 8-1338(a) as amended by ch. 39, L. 1975, you question whether a school zone speed limit of less than 20 miles per hour is permissible.

As amended, that section provides in pertinent part thus:

"(a) Whenever local authorities in their respective jurisdictions determine on the basis of an engineering and traffic investigation that any maximum speed permitted under this act is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit thereon which:

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(4) Decreases the limit within an urban district in a school zone to not less than twenty (20) miles per hour, except that any such decreased limit shall apply only during the hours in which students are normally enroute to or from school, such zones and hours to be determined by ordinance or resolution of such local authority."

Due to the cost of replacing these signs with others, the question is raised whether the 15 mile per hour limit is authorized by K.S.A. 1975 Supp. 8-1338(b), which states thus:

"Local authorities in their respective jurisdictions shall determine by . . . investigation the proper maximum speed for all arterial streets and shall declare a reasonable and safe maximum limit thereof which may be greater or less than the maximum speed permitted under this act for the urban district or other location in which the arterial street is situated, except that in no event shall any local authority establish any such maximum limit in excess of the maximum limit established by or pursuant to subsection (a) (3) of K.S.A. 1974 Supp. 8-1336."

This latter subsection applies generally to arterial streets and to no other. K.S.A. 1975 Supp. 8-1338(a) applies specifically to school zones in urban districts, imposing a minimum speed of 20 miles per hour during specified hours. This minimum speed is fixed specifically for school zones in urban districts applicable both to arterial and other streets. In my judgment, the power of local authorities to fix minimum speeds for school zones is fixed specifically by subsection (a) (3), and that the constraints therein must control over the more general power granted to local authorities respecting arterial streets in urban districts unrelated to school zones. Thus, it is my opinion that the minimum permissible speed which may be fixed by local authorities for school zones in

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urban districts is 20 miles per hour, that permitted by  
K.S.A. 1975 Supp. 8-1338(a)(4).

Yours very truly,

A handwritten signature in cursive script that reads "Curt Schneider". The signature is written in dark ink and is positioned above the typed name.

CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj