



STATE OF KANSAS

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December 4, 1979

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ATTORNEY GENERAL OPINION NO. 79- 272

Mr. Frank L. Johnson
Shawnee County Counselor
Room 205, Shawnee County Courthouse
Topeka, Kansas 66603

Re: Automobiles and Other Vehicles--Restrictions
on Maximum Speed Limits--Powers of Local
Authorities

Synopsis: The board of county commissioners has the
authority to alter maximum speed limits in
non-urban townships as prescribed by K.S.A.
1978 Supp. 8-1338(a). The township boards
of such townships have no such authority.

* * *

Dear Mr. Johnson:

You inquire whether non-urban townships are "local authorities" as defined by K.S.A. 1978 Supp. 8-1338(e) which have the authority to alter speed limits on roads under their jurisdiction as provided by K.S.A. 1978 Supp. 8-1338(a). You further inquire, if such townships lack such authority, whether the board of county commissioners is empowered to alter speed limits on township roads under the above sections or any other statute.

In consideration of your first question, we note that K.S.A. 1978 Supp. 8-1338(e) defines "local authorities" as

"the Kansas Turnpike Authority and every city, county and other local board or body having authority to adopt ordinances or regulations relating to vehicular traffic under the constitution and laws of this state." (Emphasis added.)

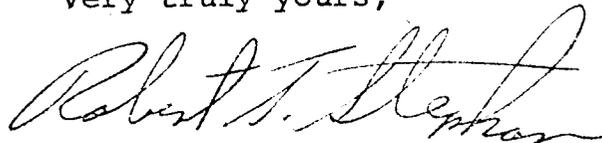
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The only statute we can find pertaining to vehicular traffic control by townships is K.S.A. 80-2307, which statute empowers "urban class townships" (as defined by K.S.A. 80-2301), inter alia, "to regulate the use of streets, roads and highways within the township in a manner not inconsistent with state law." K.S.A. 80-2307(4). Non-urban townships have no such authority, and it is our opinion that, absent such statutory authority, non-urban townships have no power to alter maximum speed limits pursuant to K.S.A. 1978 Supp. 8-1338(a).

Is the board of county commissioners authorized to regulate speed limits on non-urban township roads? K.S.A. 19-212, Ninth, empowers the board "to lay out, alter or discontinue any road running through one or more townships in such county, and also to perform such other duties respecting roads as may be provided by law." (Emphasis added.) Though we can find no express statement of authority empowering the board of county commissioners to control speed limits in non-urban townships, we conclude that such authority is implied in the above-cited section, and further, that it falls within the purview of the "home rule" power of counties "to transact all county business and [to] perform such powers of local legislation and administration as they deem appropriate." K.S.A. 1978 Supp. 19-101a, as amended by L. 1979, ch. 52, §9.

Unquestionably, traffic safety and regulation are matters of local concern. Since non-urban townships have no express statutory authority to regulate speed limits on roads under their general supervision, it is apparent the legislature intended that counties should have regulatory authority over such roads within their respective territorial jurisdictions. In our opinion, therefore, counties may exercise that authority as prescribed by K.S.A. 1978 Supp. 8-1338(a).

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Steven Carr
Assistant Attorney General

RTS:WRA:SC:gk