



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 86- 94

Gene M. Olander  
District Attorney  
Kansas Third Judicial District  
Suite 212, Shawnee County Courthouse  
Topeka, Kansas 66603

Re: Fees and Salaries--Fees in All Counties and  
Salaries in Certain Counties--Court Fees;  
Unlawful Statehouse Parking

Automobiles and Other Vehicles--Uniform Act  
Regulating Traffic; Parties, Arrests, Citations,  
Procedures and Penalties--Uniform Fine Schedule  
for Traffic Infraction Violations; Unlawful  
Statehouse Parking

Synopsis: Inclusion of the fine for unlawful statehouse  
parking in the uniform fine schedule does not  
affect the fee provisions for unlawful parking on  
other specified state property as defined by K.S.A.  
75-4505 and 75-4506. The fees which are to be  
assessed for unlawful statehouse parking are  
controlled by subsection (e), rather than  
subsection (b) of K.S.A. 1985 Supp. 28-172a.  
Cited herein: K.S.A. 1985 Supp. 8-2118(c), as  
amended by L. 1986, ch. 41, §2; K.S.A. 1985  
Supp. 28-172a(b), (e), as amended by L. 1986  
ch. 146, §3; K.S.A. 75-4505; 75-4506; 75-4508; 75-  
4510a.

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Dear Mr. Olander:

You have requested our opinion concerning the imposition of fees which are to be taxed in cases charging a violation of unlawful parking on certain state property or unlawful statehouse parking pursuant to K.S.A. 75-4505, 75-4506 and 75-4510a. Recent legislation has resulted in confusion in this matter.

Violations for parking on certain state property, as prohibited by K.S.A. 75-4505 and 75-4506, are punishable as misdemeanors under the provisions of K.S.A. 75-4508. The fees which are to be taxed as costs are prescribed by K.S.A. 1985 Supp. 28-172a(e). Subsection (e) was not amended by 1986 Senate Bill 595, L. 1986, ch. 146, §3. In short, we perceive no changes in the statutes which affect parking on state property as proscribed by K.S.A. 75-4505 and 75-4506.

The immediate confusion is confined to the provisions which relate to fines and fees for unlawful statehouse parking. K.S.A. 1985 Supp. 75-4510a prohibits unauthorized parking in certain statehouse areas, and states that a \$5.00 fine shall be assessed for such violations. Prior to the enactment of 1986 House Bill 3177, L. 1986, ch. 41, §2, the fees to be assessed were clearly covered by subsection (e) of K.S.A. 1985 Supp. 28-172a. The 1986 legislature, however, added the \$5.00 fine for unlawful statehouse parking to the uniform fine schedule, K.S.A. 1985 Supp. 8-2118(c), as amended by L. 1986, ch. 41, §2. Thus, the fees which are to be assessed are governed by two apparently conflicting subsections of K.S.A. 1985 Supp. 28-172a, as amended by S.B. 595, L. 1986, ch. 146, §3 (hereinafter referred to as K.S.A. 28-172a).

Subsection (b) of K.S.A. 28-172a provides that, in actions involving any laws "regulating traffic on highways (including those listed in subsection (c) of K.S.A. 1985 Supp. 8-2118 and amendments thereto) . . . a docket fee of \$28 shall be charged." This appears to include unlawful statehouse parking as that violation was included in the 1986 amendment to K.S.A. 1985 Supp. 8-2118(c). However, subsection (e) of K.S.A. 28-172a, as amended by S.B. 595, L. 1986, ch. 146, §3 states:

"In each case charging a violation of the laws relating to parking of motor vehicles on the statehouse grounds or other state-owned or operated property in Shawnee county, Kansas, as specified

in K.S.A. 75-4510a and amendments thereto or as specified in K.S.A. 75-4508 and amendments thereto, the clerk shall tax a fee of \$2 which shall constitute the entire costs in the case, except that witness fees, mileage and expenses incurred in serving a warrant shall be in addition to the fee. Appearance bond for a parking violation of K.S.A. 75-4508 or 75-4510a, and amendments thereto, shall be \$3, unless a warrant is issued. The judge may order the bond forfeited upon the defendant's failure to appear, and \$2 of any bond so forfeited shall be regarded as court costs." (Emphasis added.)

It is our opinion that the provisions of subsection (e) control. To construe the amended statute otherwise would render a major portion of subsection (e) meaningless. It is well settled that:

"where there is a conflict between a statute dealing generally with a subject and another dealing specifically with a certain phase of it, the specific legislation controls." State v. Keeley, 236 Kan. 555, 560 (1985).

Placing the fine for unlawful statehouse parking in the uniform fine schedule was the result of an amendment to 1986 House Bill 3177, added by the Senate Judiciary Committee. According to committee member Senator Nancy Parrish, sponsor of the addition, the inclusion of statehouse parking in the uniform fee schedule was not intended to increase the fees. Rather, the intent was to improve the administration and enforcement provisions of the statute.

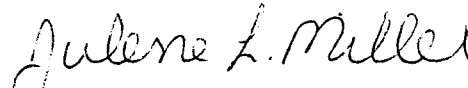
In conclusion, we perceive no changes in the fee structure for parking on certain state property as defined by K.S.A. 75-4505 and 75-4506. Regarding unlawful statehouse parking, absent a legislative intent to the contrary, the specific statute controls over the general statute. As the intent was not to

raise the fees, subsection (e) of K.S.A. 1985 Supp. 28-172a  
is the proper section to use in applying court fees.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Julene L. Miller  
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RTS:JLM:jm