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Honorable Jeanette F. Carney
Mayor, Town of Toxey
Post Office Box 318
Toxey, Alabama 36921

Municipalities – County Commissions – Streets – Speed limits – Roads, Highways and Bridges – Choctaw County

State law authorizes municipalities to set speed limits and post speed limits on state and county roads within their incorporated limits.

Dear Mayor Carney:

This opinion of the Attorney General is issued in response to your request on behalf of the Town of Toxey.

QUESTION

Does state law authorize municipalities to set speed limits and post speed limits on state and county roads within their incorporated limits, or does this authority remain with the state agency or county commission?

FACTS AND ANALYSIS

In your letter of request, you informed this Office that the Town of Toxey ("Town"), by ordinance, seeks to control traffic within its corporate limits by setting and/or reducing speed limits therein. The Town of Toxey has both state highways and county roads within its corporate limits. The Town has never annexed any streets or roads, and neither party disputes that the roads in question are county roads.

Pursuant to an ordinance, the Town wishes to post new speed limit signs on County Road 9 without the consent of the Choctaw County Commission. The Choctaw County Commission argues, however, that the Town of Toxey does not have authority to change speed limits on county roads.

Section 11-49-4 of the Code of Alabama authorizes cities and towns to fix the speed limit for motor vehicles within the corporate limits of the municipality. This section states as follows:

> ***Except as otherwise provided in this Code, the several cities and towns*** in this state ***shall fix by ordinance the speed at which motor vehicles may be operated*** within their respective corporate limits and shall fix the punishment for any violation of such ordinance within the limits of fine and imprisonment or either as now authorized or required by law.

ALA. CODE § 11-49-4 (2008) (emphasis added). This particular section, however, should not be seen as granting absolute authority to a municipality to set speed limits. Instead, this provision should be read *in para materia* with other relevant Code sections.

Further authority for the setting of speed limits is found within sections 32-5A-170 through 32-5A-178 of the Code of Alabama. Section 32-5A-173 states, in pertinent part, as follows:

> (a) Whenever local authorities in their respective jurisdictions determine ***on the basis of an engineering and traffic investigation*** that the maximum speed permitted under this article 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:
>
> . . .
>
> (3) Decreases the limit on any street, unpaved road, or highway ***under the jurisdiction and control of any county commission; . . .***

ALA. CODE § 32-5A-173 (2010) (emphasis added).

The term "local authorities," as used in section 32-5A-173, is not defined in chapter 5A of title 32. This term, however, is defined in section 32-1-1.1(29) of the Code as "the county commission" and "[e]very municipal and other local board or body having authority to enact laws relating to traffic under the constitution and laws of this state." ALA. CODE § 32-1-1.1(29) (2010).

Under the established rules of statutory construction, words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used, a court is bound to interpret that language to mean exactly what it says. *Ex parte Cove Properties, Inc.*, 796 So. 2d 331, 333-34 (Ala. 2000). Section 11-49-4 of the Code expressly authorizes a municipality to fix the speed at which motor vehicles may be operated within the corporate limits of that municipal entity. This section leaves open the possibility for further regulation.

It is the opinion of this Office that section 32-5A-173 of the Code further clarifies the authority given to a municipality in section 11-49-4 of the Code. Specifically, section 32-5A-173 of the Code authorizes a municipality to decrease the speed being traveled on a road within its corporate limits that is under the jurisdiction and control of a county, as long as such action is based on an engineering and traffic investigation that determines the maximum speed permitted is unreasonable.

Previously, in an opinion issued to Honorable Gary C. Sherrer, Attorney, Houston County Commission, dated October 7, 1996, A.G. No. 97-00002, this Office addressed this exact question regarding the authority of local governments to set speed limits within its corporate limits. In that opinion, for many of the same reasons mentioned above, this Office determined that the city has the authority to set speed limits, even though the county may bear the responsibility for traffic control devices. We see nothing in the law to change the conclusions reached in that opinion.

CONCLUSION

State law authorizes municipalities to set speed limits and post speed limits on state and county roads within their incorporated limits.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

LUTHER STRANGE
Attorney General
By:

BRENDA F. SMITH
Chief, Opinions Division

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