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HIGHWAY PATROL:

1. MAY EXERCISE AUTHORITY CONFERRED BY SECTION 1181-3 G.C. UNDER TERRITORIAL LIMITS OTHERWISE SPECIFIED—JURISDICTION, ROADS, HIGHWAYS, STREETS OF A MUNICIPAL CORPORATION.
2. AUTHORITY TO ENFORCE LAWS AS TO SIZE, WEIGHT AND SPEED OF COMMERCIAL VEHICLES — ROADS AND HIGHWAYS, STATE SYSTEM, STATE ROUTES INSIDE MUNICIPAL CORPORATION.
3. AUTHORITY AS TO REGISTRATION AND LICENSING OF MOTOR VEHICLES ON ALL ROADS AND HIGHWAYS IN STATE.
4. UNIFORM TRAFFIC ACT — SENATE BILL 29, 94 GENERAL ASSEMBLY — AUTHORITY TO ENFORCE LAW ON ROADS AND HIGHWAYS OUTSIDE MUNICIPAL CORPORATIONS — SECTION 1181-3 G.C.

SYLLABUS:

1. *The highway patrol may exercise the authority conferred on it by Section 1181-3, General Code, on all roads and highways including the streets of a municipal corporation, unless the territorial limits are otherwise specified in such section.*

2. *The highway patrol has authority to enforce the laws relating to the size, weight and speed of commercial vehicles on the roads and highways of the state highway system including state routes inside municipal corporations.*

3. *The highway patrol has authority to enforce the laws relating to the registration and licensing of motor vehicles including commercial vehicles on all roads and highways in the State.*

4. *The provisions of the Uniform Traffic Act (S.B. 29, effective September 6, 1941) do not enlarge or limit the powers and jurisdiction of the highway patrol, and since such Act governs the operation and use of motor vehicles on the highway, the highway patrol, under Section 1181-3, General Code, has authority to enforce the provisions of such Act on the roads and highways outside municipal corporations.*

Columbus Ohio, August 5, 1941

Col. Lynn Black, Supt., Ohio State Highway Patrol,
Columbus, Ohio.

Dear Sir:

This will acknowledge receipt of your request for my opinion as follows:

“Sections 1181-2 and 1181-3, Ohio General Code, were amended by the last session of the legislature. Will you please consider these sections as amended and advise us informally as to what our powers and duties now are under same.

Without limiting your inquiry herein, we call your attention to the following specific questions:

1. Does the Highway Patrol have any jurisdiction or authority within incorporated municipalities?

2. Do the duties and authority given the Highway Patrol, with respect to commercial vehicles, extend to all roads and highways and within municipalities?

3. What is the extent of our authority and jurisdiction relative to the registration and licensing of motor vehicles?

4. Does the Uniform Traffic Act, as passed by the recent session of the legislature, enlarge or limit our powers or jurisdiction? We are not inquiring as to the specific duties given us under this Act, but we desire to know if anything contained therein enlarges or limits our powers and jurisdiction as conferred in Sections 1182-2 and 1182-3."

Inasmuch as your first three questions involve the authority and jurisdiction of the highway patrol within municipal corporations, these questions will be considered together.

Sections 1181-2 and 1181-3, General Code, as amended by the 94th General Assembly (S.B. 248, effective August 9, 1941) provide in part with reference to the duties of the highway patrol:

Section 1181-2, General Code:

"The superintendent and highway patrolmen shall be vested with the authority of peace officers for the purpose of enforcing the laws of the state which it is the duty of the state highway patrol to enforce and are authorized to arrest without warrant any person who in the presence of the superintendent or any patrolman is engaged in the violation of any such laws; but such patrolmen shall never be used as peace officers in connection with any strike or labor dispute."

Section 1181-3, General Code:

"It shall be the duty of the state highway patrol to enforce the laws of the state relating to the registration and licensing of motor vehicles: to enforce, on all roads and highways outside of municipal corporations, the laws relating to the operation and use of vehicles on the highways; to enforce and prevent, on the roads of the state highway system, the violation of the laws relating to size, weight and speed of commercial motor vehicles and all laws designed for the protection of the highway pavements and structures on such highways; to investigate and report to the public utilities commission violations of its rules and regulations and the laws governing the transportation of persons and property by motor transportation companies and all other motor carriers for hire; to investigate and report violations of all laws

relating to the collection of excise taxes on motor vehicle fuels; and to regulate the movement of traffic on the roads and highways of the state outside of incorporated municipalities. It shall be the duty of the highway patrol whenever possible to determine persons causing or responsible for the breaking, damaging or destruction of any improved surfaced roadway, structure, sign, marker, guard rail, or any other appurtenance constructed or maintained by the department of highways and to arrest persons responsible therefor and to bring them before the proper officials for prosecution. It shall be the duty of the highway patrolmen to investigate and report all motor vehicle accidents on all roads and highways outside of incorporated municipalities. The superintendent or any state highway patrolman may arrest without a warrant any person, who is the driver of or a passenger in any vehicle operated or standing on a state highway, whom he has reasonable cause to believe is guilty of a felony, under the same circumstances and with the same power that any peace officer may make such arrest.

“Any person arrested by the superintendent or a patrolman shall forthwith be taken before any court or magistrate having jurisdiction of the offense whereof such person so arrested is charged, there to be dealt with according to law.

“State highway patrolmen shall have no other right or power of search or of seizure except to take from any person under arrest or about to be arrested deadly or dangerous weapons in the possession of such person. No state official shall have any power, right or authority to command, order or direct any patrolman to perform any duty or service not authorized by this act. The powers and duties conferred on the state highway patrol shall be supplementary to and in no way a limitation on the powers and duties of sheriffs or other peace officers of the state.”

By virtue of the foregoing sections it is made the duty of the patrol to enforce the laws of the state relating to the registration and licensing of motor vehicles. No territorial limits are specified. The patrol is given further authority to enforce on all roads and highways outside of municipal corporations the laws relating to the operation and use of vehicles on the highways. Here the legislature has specifically confined the patrol to the roads and highways outside municipal corporations. The third clause of Section 1181-3, General Code, confers upon the patrol authority to enforce on the roads of the state highway system the laws relating to the size, weight and speed of commercial motor vehicles, and the laws designed for the protection of the highway pavements and structures on such highways.

Although Section 1181-3, General Code imposes other duties on

the patrol, I do not deem it necessary to discuss them for the reason that the proper construction of the language conferring the powers herein specifically referred to will establish the correct rule with reference to the exercise of all the powers of the patrol.

In the first three clauses of Section 1181-3, General Code, the Legislature has used different language with reference to the territorial confines of the patrol's activities. Of these three divisions of powers it is only with regard to the laws relating to the operation and use of vehicles on the highway that the Legislature has specifically confined the patrol to the territory outside municipal corporations. Therefore, it must have been the intention and it is accordingly my opinion in answer to your first question, that the highway patrol may exercise the authority conferred on it by Section 1181-3, General Code, on all roads and highways, including the streets of a municipal corporation unless the territorial limits are otherwise specified in such section.

Coming now to a consideration of your second question, obviously the authority given the patrol with respect to commercial vehicles does not extend to all roads and highways within municipal corporations, for the reason that the Legislature has specifically confined the enforcement of such laws to the roads of the state highway system.

Section 1189, General Code, provides in part:

"The state highway routes into or through municipal corporations, as the same are now designated or indicated by state highway route markers erected thereon, or as the same may hereafter be designated or indicated as provided herein, are hereby declared to be state highways and a part of the state highway system."

In view of the foregoing it is clear that the jurisdiction of the patrol with reference to the size, weight and speed of commercial vehicles extends only to those highways which are a part of the state highway system. By virtue of Section 1189, General Code, only those highways within a municipal corporation which are marked with state highway route markers are a part of the state highway system, and the patrol is confined to such highways in enforcing, within municipal corporations, laws relating to the size, weight and speed of commercial vehicles.

The foregoing discussion also reveals the answer to your third question. Section 1181-3, General Code, imposes on the highway patrol the

duty of enforcing the laws relative to the registration and licensing of motor vehicles. Such section does not specify the territorial limits of such enforcement and therefore it must be concluded that the patrol has authority to enforce such laws on all the roads and highways of the State, both inside and outside municipal corporations and this authority also extends to the registration and licensing of commercial motor vehicles.

With reference to your fourth question, I have examined the provisions of the Uniform Traffic Act passed by the 94th General Assembly (S.B. 29, effective September 6, 1941) and find nothing therein which enlarges or limits the powers and jurisdiction of the highway patrol. Such Act establishes rules for the operation and use of vehicles on the highways, the provisions of which Act, under Section 1181-3, General Code, the highway patrol has authority to enforce on roads and highways outside municipal corporations.

Therefore, in specific answer to your inquiry I am of the opinion that:

1. The highway patrol may exercise the authority conferred on it by Section 1181-3, General Code, on all roads and highways including the streets of a municipal corporation, unless the territorial limits are otherwise specified in such section.

2. The highway patrol has authority to enforce the laws relating to the size, weight and speed of commercial vehicles on the roads and highways of the state highway system including state routes inside municipal corporations.

3. The highway patrol has authority to enforce the laws relating to the registration and licensing of motor vehicles including commercial vehicles on all roads and highways in the State.

4. The provisions of the Uniform Traffic Act (S.B. 29, effective September 6, 1941) do not enlarge or limit the powers and jurisdiction of the highway patrol, and since such Act governs the operation and use of motor vehicles on the highway, the highway patrol, under Section 1181-3, General Code, has authority to enforce the provisions of such Act on the roads and highways outside municipal corporations.

Respectfully,

THOMAS J. HERBERT,
Attorney General.