

STATE HIGHWAY PATROL:  
ARREST:  
CITIES, TOWNS AND VILLAGES:  
FOURTH CLASS CITY:

State Highway Patrol is without authority to enforce municipal ordinances and a fourth class city cannot confer such authority by ordinance.

OPINION NO. 280

December 12, 1967

Colonel Edmund I. Hockaday  
Superintendent  
Missouri State Highway Patrol  
General Headquarters - P. O. Box 566  
Jefferson City, Missouri 65101



Dear Colonel Hockaday:

Recently you requested an opinion from this office as to whether members of the State Highway Patrol have legal authority to make arrests for violations of municipal ordinances. The ordinances to which you refer were enacted by the Board of Aldermen of the City of Lake Ozark, Missouri, and provide that any person who consumes alcoholic beverages on the public streets or highways shall be guilty of a misdemeanor, and the city marshal, sheriff and State Highway Patrol are expressly given authority to enforce the same.

We are enclosing herewith an opinion issued by this office on March 11, 1947, to Honorable Rufe Scott, Prosecuting Attorney, Stone County, Missouri, in which it was held that the authority of a sheriff as conservator of the peace is county-wide and includes arrest if the act complained of is an offense against both the municipal ordinance and the state law; but if it does not constitute a state offense, it is not the duty of the sheriff to enforce such ordinance.

Section 43.180, RSMo 1959, provides that the members of the State Highway Patrol shall have full power and authority as now or hereafter invested by law in peace officers when working with and at the request of the sheriff of any county or the chief of police of any city or under the direction of the Superintendent of the State Highway Patrol to arrest anyone violating any law in their presence or in the apprehension and arrest of any fugitives from justice or on any felony violation. The members of the State Highway Patrol are given full authority to make investigations connected with any crime of any nature.

Colonel Edmund I. Hockaday

Section 43.200, RSMo 1959, provides in part that the Superintendent of the Highway Patrol shall see that every member of the Highway Patrol is thoroughly instructed in the powers of police officers to arrest for misdemeanors and felonies.

Section 43.220, RSMo 1959, provides that neither the Governor, the Highway Commission nor the Superintendent of the Highway Patrol shall have any power, right or authority to command or order or direct any member of the Highway Patrol to perform any duty or service not authorized by this chapter.

The violation of a city ordinance is not a crime in the constitutional sense nor a misdemeanor under our criminal code. City of Ava v. Yost, 375 S.W.2d 884; Marshall v. Kansas City, 355 S.W.2d 877. Violations of municipal police regulations are not "crimes." Delaney v. Police Court of Kansas City, 167 Mo. 667, 67 S.W. 589.

We believe that under the above statutory provisions, the State Highway Patrol may work with or when at the special request of the chief of police of any city may cooperate in the investigation and arrest of any person violating a state law but this does not include violations of municipal ordinances.

Lake Ozark is a fourth class city. Section 85.620, RSMo 1959, provides that police of a fourth class city may be appointed in such numbers for such times and in such manner as may be prescribed by ordinance. They shall have power to serve and execute all warrants, subpoenas and other process and make arrest in the same manner as the marshal. Section 79.250, RSMo, requires all officers appointed in a fourth class city to be residents of such city. Under these statutes, unless a person is a resident of the city and appointed as a member of the police force, he has no authority to make arrests, and any ordinance of the city attempting to confer such authority in any other manner is void. Graham v. State, 143 Ga. 440, 85 S.E. 328.

#### CONCLUSION

It is the opinion of this office that the Missouri State Highway Patrol does not have authority to enforce municipal ordinances in a fourth class city and that an ordinance of a

Colonel Edmund I. Hockaday

fourth class city purporting to grant such authority is void and of no effect.

The foregoing opinion, which I hereby approve, was prepared by my assistant Moody Mansur.

Yours very truly,

  
NORMAN H. ANDERSON  
Attorney General

Enclosure: Opinion to  
Honorable Rufe Scott  
3-11-47