

STATE HIGHWAY COMMISSION:

8110-8111 RS 760 1929

Highway commission has authority to close state highway temporarily, to establish detours, travelers can not be compelled to use any particular highway or road and the highway commission has no authority to repair roads other than state highways and detours established by the board.

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Honorable Ted Frossard
Prosecuting Attorney
Cassville, Missouri

Dear Mr. Frossard:

This Department acknowledges receipt of your letter dated July 6, 1933, which in part is as follows:

"Now what I want to know is does the state, either by law or by policy, have any obligation to maintain a road which is used by traffic while the main state highway is closed up. If it does these people would like to take some steps to see about getting their due. If it does not then can the busses and trucks, operating on scheduled routes be compelled to use the road officially designated as the detour. No funds exist in the districts treasury whereby the road can be rebuilt and if it left in its present condition this winter these people will have only a rocky, rutted, muddy road where formerly was a good, all-weather road which met their needs and which was built of their own funds".

Section 8110 Revised Statutes of Missouri 1929, provides as follows:

"The commission shall have power to close temporarily for the purpose

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of construction or repair any portion of a state highway to public use and to issue regulations controlling the use of state highways and all properties relating thereto".

Subdivision 6 of Section 8111 with reference to the powers of the highway commission, further provides:

"Establishing detours in connection with the location, construction, reconstruction, widening, improvement or maintenance of any state highway or any part thereof".

It is clear then that the commission had the power to temporarily close the state highway for the purpose of doing the work outlined in your letter and further that the commission was empowered to establish a detour in connection with the improvement being made. The establishing of the detour was probably for the purpose of having the same marked and maintained so that the general traveling public might be enabled to follow the route they desired to travel. However, any person desiring to travel in this state may choose any road he likes, whether it be a state highway or whether it be what is generally known as a county road, and we can find no authority in any one to compel a particular person to travel any particular route, that is regardless of the character or weight of the traffic and regardless of the effect it may have on the road that is traveled.

Article XII of Chapter 42, Revised Statutes Missouri 1929, in Section 8128 thereof, and laws 1931 page 321, make certain provisions with reference to reimbursing counties, cities or other civil subdivisions of the state under certain circumstances for moneys expended by such county, city or civil subdivision in the building of the state road system. We understand that the road designated in your letter as the "eastern route" is not a part of the state road system and we do not find any authority that would warrant the state highway commission in repairing the road designated as the "eastern route". The condition outlined in your letter is the result of traffic conditions in the state that have developed under the state highway system and we see no relief in the law

Honorable Ted Frossard

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on account of the matters you mention.

We do not know as to the policy of the state highway commission with reference to these matters, you can doubtless obtain that information from the state highway commission.

Very truly yours,

GILBERT LAMB
Assistant Attorney General,

APPROVED:

Acting Attorney General.

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