

July 16, 1980

OPINION LETTER NO. 19
(Answer by Letter - Wood)

Mr. F. M. Wilson
Director, Dept. of Public Safety
621 East Capitol
Post Office Box 749
Jefferson City, Missouri 65101



Dear Mr. Wilson:

This letter is in response to your question asking whether certain departmental components of the Department of Public Safety may be permitted to use either free or at cost part of the State Highway Patrol Headquarters Building, whose cost we understand was borne by the State Highway Department Fund. See §§ 226.200, RSMo, and 30(b) of Art. IV of the Missouri Constitution. The departmental components to which you refer are the office of the Director of Public Safety, the Division of Liquor Control, the Division of Water Safety, the Missouri Council on Criminal Justice, and the State Fire Marshal. It is not disputed that none of these departmental components are entitled to the direct use of state highway department funds. You also ask whether you may use an automobile paid for and maintained by state highway department funds, even though such use of the automobile would not be fully related to your functions relative to highway related activities.

We understand that your question does not involve the question of a sale or use of surplus property.

In State Highway Commission v. Spainhower, 504 S.W.2d 121 (Mo. Banc 1973), the Missouri Supreme Court stated at l.c. 125:

. . . It is clear, however, that the people of Missouri, by Article IV, Section 30(b), and the General Assembly, by its enactment of Section 226.220, supra, interpretation of Article IV, Section 30(b), intended that no money be diverted from

Mr. F. M. Wilson

the state road fund and no other use be permitted of the fund except for the enumerated state highway purposes. Pohl v. State Highway Commission, 431 S.W.2d 99, 104-105, 106 (Mo. banc 1968). . . .

We also enclose our Opinions Nos. 85, dated June 7, 1974, to Lang, 23, dated February 1, 1972, to Graham, and 224, dated April 26, 1967, to Walsh, all of which expressed our view of the restrictions placed on the use of highway funds. We believe that such opinions are applicable to your questions and that the analogy is precise.

We conclude that such nonhighway related divisions of your department may not use space in the State Highway Patrol Headquarters Building, and that you may not use an automobile paid for and maintained out of the state highway department fund.

Very truly yours,

JOHN ASHCROFT
Attorney General

Enclosures

Att'y Gen. Op. No. 85,
Lang, 6/7/74
Att'y Gen. Op. No. 23,
Graham, 2/1/72
Att'y Gen. Op. No. 224,
Walsh, 4/26/67