

STATE HIGHWAY PATROL: Violation of a city ordinance
is not a criminal offense.

March 31, 1943

Col. M. Stanley Ginn
Superintendent
Missouri State Highway Patrol
Jefferson City, Missouri

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Dear Sir:

We are in receipt of your request for an opinion,
under date of March 30, 1943, which reads as follows:

"We respectfully request your opinion
on the following:

"An applicant for membership in the
Patrol has been convicted and paid a
fine for speeding in violation of a
city ordinance of the city of St. Louis,
Missouri.

"Section 8352, Revised Statutes of Mis-
souri, 1939, provide 'no person shall
be appointed . . . a member of the
Patrol who shall have been convicted
of or against whom any indictment may
be pending for any offense.'

"Is the man who has been thus convic-
ted ineligible for membership on the
Patrol?"

Section 8352 R. S. Missouri, 1939, partially reads
as follows:

"No person shall be appointed as super-
intendent, captain or member of the pa-
trol who shall have been convicted of

or against whom any indictment may
be pending for any offense; * * * ."

In reading the above partial section, it will be noticed that it contains the words, "against whom any indictment * * * ."

In your request you state that the applicant for a membership in the State Highway Patrol has been convicted for speeding, in violation of the city ordinance of the city of St. Louis, Missouri. Since the partial section uses the word "indictment", it shows that it was the intention of the legislature to mean a crime filed on by an indictment, under the State law. Cities are not authorized to bring in indictments for violation of city ordinances.

It is true the section says that a person cannot be appointed to the State Highway Patrol if convicted of, or against whom any indictment may be pending for, any offense. In construing a statute the meaning of the language of the statute is narrowed, or broadened, to conform to the legislative intent, as gathered from its entirety, history and purpose. (Rust v. Missouri Dental Board, 155 S. W. (2d) 80.) If it was the intent of the legislature that a person would be ineligible to be a member of the State Highway Patrol if he had violated a city ordinance, it would have included terms regarding the violation of the city ordinance.

The effect must be given if possible to every word, clause, sentence, paragraph and section of a statute, in arriving at a construction of the legislative intent. (Graves v. Little Tarkio Drainage District No. 1, 134 S. W. (2d) 70, 345 Mo. 557.)

The statute also uses the word "offense" and can only be construed as meaning a criminal offense, for the reason that the word "convicted", and the word "indictment" are a part of the section. It is common knowledge that the violation of a city ordinance is not a criminal offense. It was so held in the case of Kansas City v. Neal, 122 Mo. 232, 1. c. 234, where the court said:

"In *Ex Parte Hollwedell*, 74 Mo. 395, it is held that the violation of a city ordinance is not a criminal offence within the meaning of the constitution, and that a proceeding by a city to recover a fine for the violation of such ordinance need not be by indictment or information in the name of the state.

"The proceeding by the city against the defendant Neal for a violation of its ordinances was but a civil suit in form and quasi criminal in its character for the collection of a fine for the violation of its laws enacted for the better promotion of peace and good order within its limits. *City of Kansas v. Clark*, 68 Mo. 588; *City of St. Louis v. Vert*, 84 Mo. 204."

Also, in the case of *State ex rel. v. Renick*, 157 Mo. 292, l. c. 300, the court said:

"The term 'offenses' as there used, means violations of State laws; the context forbids any other interpretation. That there is a well-recognized distinction between the nature of offenses which consist in violation of city ordinances and of those which consist in the violation of a State law is pointed out in *Dillon on Municipal Corporations* (4 Ed.), sec. 429, and the nature of the proceeding to recover the fine or penalty for violating an ordinance, and the character of court in which the proceeding may be had is shown. The nature of the proceeding and character of the judgment, is also shown in *Stevens v. Kansas City*, above referred to. The section of the Constitution conferring this

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power, requires the Governor to communicate to the General Assembly every act of his under that section 'stating the name of the convict, the crime for which he was convicted,' etc. That language clearly indicates that the framers of the Constitution had in mind only offenses against the State law."

CONCLUSION

It is, therefore, the opinion of this department, that an applicant for membership on the State Highway Patrol, who has been convicted and paid a fine for speeding, in violation of the city ordinance of the city of St. Louis, Missouri, can be appointed as a member of the Highway Patrol.

Respectfully submitted

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APPROVED BY:

ROY McKITTRICK
Attorney General of Missouri

WJB:RW