Tolls

Number: INFORMAL

Date: October 30, 2014

Mr. Kenneth R. Albano
President
Tampa Bay Area Chiefs of Police Association
Post Office Box 66128
Saint Pete Beach, Florida 33706

Dear Chief Albano:

This office has received your request for assistance in extending the statutory exemption for the payment of tolls to unmarked police vehicles under section 338.155, Florida Statutes. Attorney General Bondi has asked that I respond to your correspondence. Regrettably, the matter is one that may not be addressed in a formal opinion and, due to the administrative authority of the Florida Department of Transportation over the toll roads of this state, this office would defer to that agency for further clarification. Ultimately, this is a matter which may need to be addressed by the Legislature.

Section 334.044(16)(a), Florida Statutes, prescribes the general powers and duties of the Florida Department of Transportation, including:

"To plan, acquire, lease, construct, maintain, and operate toll facilities; to authorize the issuance and refunding of bonds; and *to fix and collect tolls or other charges for travel on any such facilities.*" (e.s.)

Thus, the Legislature has given the Department of Transportation the authority to fix and collect tolls. Section 338.155(1), Florida Statutes, however, directs the payment of tolls by all persons using toll facilities with enumerated exceptions. These exemptions include: "[a]ny law enforcement officer operating a marked official vehicle is exempt from toll payment when on official law enforcement business." The subsection also exempts "[a]ny person operating a fire vehicle when on official business or a rescue vehicle when on official business[.]"

The plain language of the statute exempts only "marked" law enforcement vehicles. It would be advisable to contact the Department of Transportation to determine whether the issue may be addressed in departmental rules. Moreover, to clarify the matter, it may be necessary to work with your legislative delegation to amend the statute. I would note that during the 2014 Legislative Session, Senate Bill 1560 attempted to exempt school buses from the payment of tolls, but the bill died in committee.

Please understand the role this office must play in interpreting the terms of a statute and that where a statute sets forth exemptions from its application, such exemptions must be narrowly interpreted and no others may be implied.

Sincerely,

Lagan Saunders
Assistant Attorney General

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