Payment of Tolls by Law Enforcement Officers

Number: INFORMAL

Date: August 01, 2013

Mr. Daniel J. Stallone
Police Legal Advisor
Town of Davie Police Department
1230 South Nob Hill Road
Davie, Florida 33324

Dear Mr. Stallone:

On behalf of the town administrator for the Town of Davie, you ask for an interpretation of the terms in section 338.155, Florida Statutes, relating to the exemption from the payment of tolls by any law enforcement officer operating a marked official vehicle when engaged in official law enforcement business.

While this office has previously rendered opinions considering the off-duty use of law enforcement vehicles, in this instance, commenting upon the exemption from the payment of tolls would necessarily involve an interpretation of a statute administered by state and local agencies which are not a party to your request. In such cases, this office would require the agencies with jurisdiction in the matter to join in a request before offering an opinion.

Section 338.155, Florida Statutes, generally requires the payment of a toll for the use of a toll road in this state. The statute enumerates exceptions to such payment, including "[a]ny law enforcement officer operating a marked official vehicle . . . when on official law enforcement business." The statute does not provide a definition for the individual qualifying terms within this exception. It is a general rule of statutory construction, however, that where the Legislature has not provided a definition, a term used in a statute should be given its plain and ordinary meaning, unless the context requires otherwise.[1]

Section 338.01(1), Florida Statutes, authorizes the Florida Department of Transportation (FDOT) to establish limited access facilities as provided in section 335.02, Florida Statutes.[2] The transportation and expressway authorities of the state, counties, and municipalities, acting alone or in cooperation with each other, also are authorized to provide limited access facilities for public use.[3] The authorities may construct a limited access highway as a new facility or may designate an existing street or highway as included within a limited access facility. The statute recognizes that the authorities may regulate the use of such limited access facilities.[4]

This office will defer to the regulatory jurisdiction of the FDOT and local transportation and expressway authorities and decline to provide an interpretation of section 338.155, Florida Statutes, absent a request from the department or applicable authority. For further assistance, you may wish to contact:

Mr. Jerry Curington

General Counsel
Florida Department of Transportation
605 Suwannee Street, MS58
Tallahassee, FL 32399
Tel: 850-414-5265
Fax: 850-414-5264
Email: ginger.franks@dot.state.fl.us; harper.bearss@dot.state.fl.us

Please understand the inability of this office to become more directly involved in this matter at this time.

Sincerely,

Lagran Saunders
Assistant Attorney General

ALS/tsrh

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[1] *See generally Sieniarecki v. State*, 756 So. 2d 68 (Fla. 2000) (in absence of a statutory definition, words of common usage are construed in their plain and ordinary sense and, if necessary, the plain and ordinary meaning of the word can be ascertained by reference to a dictionary); *In re McCollam*, 612 So. 2d 572 (Fla. 1993) (when language of statute is clear and unambiguous and conveys a clear meaning, statute must be given its plain and ordinary meaning).

[2] Section 335.02(1), Fla. Stat., authorizes the department to locate and designate certain transportation facilities as part of the State Highway System and to construct and maintain them with funds available to the department.

[3] Section 338.01(2), Fla. Stat.

[4] Section 338.01(5), Fla. Stat.