

Traffic laws enforced on private property

Number: INFORMAL

Date: October 24, 1996

Captain Rick Davis
Madison Police Department
108 Southwest Rutledge Street
Madison, Florida 32340

Dear Mr. Davis:

You ask for information regarding the authority of a municipal police department to enforce the traffic laws on privately owned parking lots, such as shopping mall and convenient store parking lots where the public has a right to travel. Attorney General Butterworth has asked me to respond to your letter.

Chapter 316, Florida Statutes, the Florida Uniform Traffic Control Law, was enacted in order to make uniform traffic laws applicable throughout the state and its several counties and uniform traffic ordinances to apply in all municipalities.[1] Section 316.006, Florida Statutes, vests jurisdiction to control traffic in the state, counties, and municipalities. Section 316.640, Florida Statutes, provides generally for the enforcement of traffic laws and, more specifically, states that municipalities shall enforce state traffic laws on municipal thoroughfares "wherever the public has the right to travel." [2]

It is the availability of the area for travel and the right of general and common use which makes certain private property subject to public control pursuant to Chapter 316, Florida Statutes. Thus, this office has concluded that municipalities have enforcement authority regarding traffic violations and accidents occurring on "private property" where the public has the right to travel, such as shopping center parking lots.[3]

For those private roads where the public does not have a right to travel, however, section 316.006(2)(b), Florida Statutes, authorizes a municipality to exercise jurisdiction over those roads if the municipality and the party controlling such roads have entered into a written agreement for municipal traffic control jurisdiction.[4] The agreement, which must be approved by the governing body of the municipality, must provide for reimbursement of the actual costs of traffic control and enforcement and for liability insurance and indemnification by the party who owns or controls such roads. Other terms, as may be mutually agreeable to the parties, may also be included.[5]

I am enclosing copies of several Attorney General Opinions addressing this issue. I trust that the enclosed materials and above informal advisory comments will be of assistance to you in resolving this matter.

Sincerely,

Joslyn Wilson
Assistant Attorney General

JW/tgk

Enclosures: Ops. Att'y Gen. Fla. 88-5 (1988), 84-46 (1984), 73-323 (1973) and 72-383 (1972)

[1] Section 316.002, Fla. Stat.

[2] Section 316.640(3)(a), Fla. Stat.

[3] See Ops. Att'y Gen. Fla. 73-323 (1973) and 72-383 (1972). *And* see Op. Att'y Gen. Fla. 84-46 (1984) (if public has right to travel on access road owned and maintained by, and located within territorial limits of, airport authority, then provisions of Ch. 316, Fla. Stat., applicable).

[4] See Op. Att'y Gen. Fla. 88-5 (1988).

[5] Section 316.006(2)(b)1., Fla. Stat. *And* see s. 316.006(2)(b)2., Fla. Stat., which states that the exercise of this jurisdiction is in addition to jurisdictional authority presently exercised by municipalities under law and that nothing in the paragraph shall be construed to limit or remove any such jurisdictional authority.