



RICHARD P. IEYOUB
ATTORNEY GENERAL

State of Louisiana

DEPARTMENT OF JUSTICE

Baton Rouge

70804-9005

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OPINION 02-0101

P.O. Box 94005
TEL: (504) 342-7013
FAX: (504) 342-7335

Honorable Kenneth L. Odinet, Sr.
State Representative
932 Angela Street
Arabi, Louisiana 70032

15 COURTS
71 MUNICIPALITIES
50 HIGHWAY-ROADS
R.S. 33:441; R.S. 32:41(A)(9); R.S. 32:61

A mayor's court only has jurisdiction over violations of municipal ordinances. The Town of Waterproof, a Lawrason Act municipality, may adopt a traffic ordinance concerning speed limits on state highways within corporate limits provided that the ordinance is not contrary to the speed limit provided by state law. Such an ordinance is within the jurisdiction of the mayor's court.

Dear Representative Odinet:

Your inquiry of recent date asks us to determine whether the Mayor's Court for the Town of Waterproof has jurisdiction to over traffic violations where the provisions of Title 32 of the Louisiana Revised Statutes (the Louisiana Highway Regulatory Act) form the basis of the prosecution.

The Town of Waterproof is a Lawrason Act municipality, and is governed by the provisions of R.S. 33:441, which pertinently provides:

- A. (1) Except as provided in Chapter 7 of Title 13, there shall be a mayor's court in the municipality, with jurisdiction over all violations of municipal ordinances. The mayor may try all breaches of the ordinances and impose fines or imprisonment, or both, provided for the infraction thereof. Notwithstanding any other provision of law to the contrary, the mayor may also impose court costs not to exceed thirty dollars for each offense, as defined by ordinance, on any defendant convicted of a violation of a municipal ordinance. (Emphasis added).

R.S. 33:441 limits the jurisdiction of the Mayor's Court to violations of municipal ordinances. Thus, the Mayor is not authorized to hear a case involving a violation of state law.

However, R.S. 32:41 permits a municipality to adopt traffic ordinances which are not inconsistent with Title 32 or state regulations. See R.S. 32:41(C).¹ Accordingly, the Town of Waterproof could adopt an ordinance providing for a speed limit on state highways within the corporate limits (tracking the language of R.S. 32:61²). Offenders

¹ R.S. 32:41(C) pertinently provides: "Local municipal authorities also may adopt ordinances regulating traffic on state maintained highways within their corporate limits so long as such ordinances do not establish regulations different from, or in addition to, the provisions of this Chapter and the regulations of the department and the commissioner adopted pursuant thereto...."

² R.S. 32:61 defines the maximum speed limit allowed by state law.

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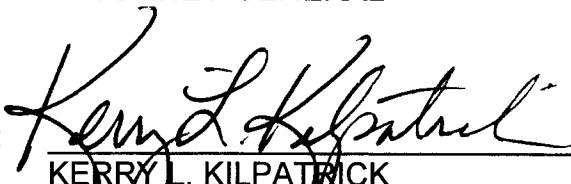
who are issued a citation for violation of this ordinance would be within the jurisdiction of the Mayor's Court.

You have also asked this office to determine the point at which a speed limit changes. Our research reflects no definitive law in this area. Whether or not an individual exceeded the speed limit is a question of fact to be determined by the court. Note that local municipalities are empowered by R.S. 32:41(A)(9) to "establish speed limits and speed zones" provided that no speed be permitted in excess of the maximum speed limits established by Chapter 1 of the Louisiana Highway Regulatory Act, R.S. 32:1, et seq.

We hope the foregoing is helpful to you. Should you have further questions, please contact this office.

Very truly yours,

RICHARD P. IEYOUNG
ATTORNEY GENERAL

BY: 
KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

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