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SPRINGFIELD

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FILE NO. S-266

COUNTY BOARDS:
Regulation of Public
Health and Safety

Honorable Dexter A. Knowlton
State's Attorney
Stephenson County
Freeport, Illinois

Dear Sir:

I have your letter of recent date which inquires about the validity of "an ordinance regulating motor vehicle races and stunts in Stephenson County, Illinois" adopted July 14, 1970, by the Board of Commissioners of Stephenson County.

The ordinance reads as follows:

SECTION I- Purpose

For the purpose of promoting the public health, safety, comfort, convenience and general welfare.

To provide a permit fee for all races and events.

To prescribe reasonable rules and regulations governing motor vehicle races and motor vehicle stunts held in the County by a person other than the County Fair Association or other not for profit

associations or corporations.

SECTION II

A. Permit Fee

There shall be established a permit fee of fifty dollars (\$50.00), payable in advance, for all races and events held by a person, other than the County Fair Association or other not for profit association or corporation, on a single day, provided, however, that if the race or event for which such permit is issued, is rained out or postponed for other good cause shown, the permit shall be valid for use within the next eight (8) days specified in the permit.

The County Clerk shall issue a permit to a person who is required to pay the permit fee providing such person has at all times complied with the rules and regulations set forth in Section III below.

SECTION III - Rules and Regulations

A. Insurance

A certificate of insurance with a company or companies authorized to do business in Illinois shall be filed with the County Clerk by the person applying for Permit to Hold Motor Vehicle Races or Stunt Events. Such insurance shall be obtained in reasonable amounts

covering the applicants liability for bodily injury or property damage arising out of each occurrence.

B. Time For Holding Races or Stunt Events

No motor vehicle race or stunt event shall be conducted after the hour of 11:00 P.M.

C. Necessity of Permit

No person, other than a County Fair Association, or other not for profit association or corporation, shall hold any motor vehicle races or motor vehicle stunt event unless he obtains a written permit to do so from the County Board.

D. Sanitary Facilities

Each applicant shall file with the County Clerk a certificate from the County Health Department stating that all sanitary and health rules and regulations of the Illinois Department of Public Health or of the County Health Department have been complied with.

E. Penalties

Any person who violates any provision of the Ordinance, or who submits a false certificate with the application for a permit, shall be punished for each offense by a fine of not less than fifty dollars (\$50.00) or more than two hundred dollars (\$200.00).

F. Separability

Should any part of this ordinance be declared invalid by a court of competent jurisdiction, such declaration shall not effect the validity of the remaining parts of this ordinance.

G. Effective Date

This Ordinance shall be in full force and effect ten (10) days after the publication date.

Your letter specifically asks:

"Can Section III be sustained under the general powers of the County Board to provide ordinances or resolutions concerning the public health, safety, comfort, etc.?"

Sections of the statutes pertinent to your inquiry are

these:

Chapter 34, paragraph 401, Illinois Revised Statutes 1969, reads in part as follows:

"The county board of each county has the powers enumerated in [Sections 402 through 429.18] subject to conditions therein stated. Powers conferred on counties are in addition to and not in limitation of their existing powers."

Chapter 34, paragraph 419, Illinois Revised Statutes
1969, reads in part as follows:

"During the period that 'an Act in relation to the establishment and maintenance of county and multiple-county public health departments', approved July 9, 1943, as amended, is in force in the particular county, [the county has the power] to:
(1) do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease.

* * * *

(5) adopt resolutions for the regulations issued under paragraph 1.... A violation of any such resolution is a misdemeanor and is punishable by a fine of not more than \$200."

Chapter 34, paragraph 421, Illinois Revised Statutes
1969, reads in part as follows:

"[The county board has the power] to license and regulate persons engaged, within the boundaries of the County but outside the limits of cities, villages, and incorporated towns, in the business of providing entertainment or recreation License fees shall be as follows:

* * * *

(2) for the business of providing entertainment or recreation, not to exceed \$200 per year.

* * * *

The conduct of any such business without securing a license therefor when required shall be a misdemeanor, punishable by a fine not exceeding \$200."

Chapter 34, paragraph 6101, Illinois Revised Statutes 1969, reads as follows:

"In counties having a population of 500,000 or less inhabitants, no person, other than a county fair association, state fair or other not for profit association or corporation, shall hold any motor vehicle race or motor vehicle stunt event unless he obtains a written permit to do so from the county board of such county wherein the race or event is to take place."

Chapter 34, paragraph 6102, Illinois Revised Statutes 1969, reads in part as follows:

"Each county board shall fix a permit fee not to exceed \$100 for all races and events held by a person, other than a county fair association, state fair or other not for profit association or corporation, on a single day."

A county board can exercise only such powers as are expressly given by law or such as arise by necessary implication from the powers granted or are indispensable to carry into effect the object and purpose of its creation. Abbott v. Adams County, 214 Ill. App. 201 (1919), Dahnke v. People, 57 Ill. App. 619, Aff'd. 48 N.E. 137, 168 Ill. 102 (1894), Crumpler v. Logan County, 230 N.E. 2d 211 (1967). It is therefore my opinion that:

- (1) A county board may require that insurance be obtained in reasonable amounts covering the liability for bodily injury or property damage arising out of a motor vehicle race or motor vehicle stunt event.
- (2) A county board may regulate the hours within which a motor vehicle race or stunt event may be conducted.
- (3) A county board may require a written permit to hold a motor vehicle race or stunt event.
- (4) A county board may require an applicant for a permit to hold a motor vehicle race or stunt event to provide a certificate from the county health department stating that all sanitary and health rules and regulations of the Illinois Department of Public Health or of the county health department have been complied with.

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- (5) The county board may provide for a fine of not more than \$200 for the violation of any resolution or regulation adopted pursuant to paragraph 419 of Chapter 34 of Illinois Revised Statutes 1969. The county board may also provide for a fine not exceeding \$200 for the failure to secure a license required pursuant to the provisions of paragraph 421 of Chapter 34, Illinois Revised Statutes 1969.

Very truly yours,

A T T O R N E Y G E N E R A L