

July 30, 2021

The Honorable Jason W. Given
Coshocton County Prosecuting Attorney
318 Chestnut Street
Coshocton, Ohio 43812-1116

SYLLABUS: 2021-019

The phrase “local authority,” R.C. 4519.41(B), when used in connection with highways in a county, refers to the board of county commissioners.



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OPINION NO. 2021-019

The Honorable Jason W. Given
Coshocton County Prosecuting Attorney
318 Chestnut Street
Coshocton, Ohio 43812-1116

Dear Prosecutor Given:

You have requested an opinion on the meaning of “local authority” as the term is used in R.C. 4519.41(B). Specifically, you ask:

As used in R.C. 4519.41(B) for highways in a county, which county official or officials does the term “local authority having jurisdiction over such highways” refer to— the county sheriff, the board of county commissioners, or a third official?

Upon review, I find that “local authority,” as used in R.C. 4519.41(B), refers to the board of county commissioners when dealing with county highways.

R.C. 4519.41 states that “[s]nowmobiles, off-highway motorcycles, and all-purpose vehicles may be operated” under a list of circumstances. R.C. 4519.41(B) allows the operation of snowmobiles, off-highway motorcycles, and all-purpose vehicles “[o]n highways in the county or township road systems whenever the *local authority having jurisdiction over such highways so permits.*” (Emphasis added).

There is no definition for “local authority” in R.C. Chapter 4519. And the meaning of this term is

ambiguous, in that it could refer to various different “authorities,” including the county sheriff or the board of county commissioners. Because the language is ambiguous, it is appropriate to consider the way the phrase is used in laws dealing with “the same or similar subjects.” *D.A.B.E. Inc., v. Toledo-Lucas Cty. Bd. of Health*, 96 Ohio. St.3d 250, 2002-Ohio-4172, 773 N.E.2d 536, at ¶20; R.C. 1.49(D) (“If a statute is ambiguous, the court, in determining the intention of the legislature, may consider among other matters” ... “laws upon the same or similar subjects”).

An examination of the definitions provided in R.C. 4519.01 shows that many of its subsections use a definition that is set forth in R.C. 4511.01. *See* R.C. 4519.01(F), (I), and (M). And a review of R.C. 4511.01 contains a definition for “local authorities.” Specifically, R.C. 4511.01(AA) states the definition for “local authorities” as it used in R.C. Chapter 4511 and 4513 (chapters setting forth traffic laws). The definition states: “Local authorities’ means every county, municipal, and other local board or body having authority to adopt police regulations under the constitution and laws of this state.” Prior opinions have concurred in finding that the definition of “local authorities” includes a board of county commissioners. 1987 Op. Att’y Gen. No. 87-098, at 2-648; 1979 Op. Att’y Gen. No. 79-058, at 2-197; 1962 Op. Att’y Gen. No. 3243, P. 682, at 684; 1954 Op. Att’y Gen. No. 4644, P. 661, at 662 to 663; 1948 Op. Att’y Gen. No. 3139, P. 230, at 231 to 232 (analyzing G.C. 6307-2, the predecessor to R.C. 4511.01).

Additional support for the determination that a board of county commissioners is the “local authority” under R.C. 4519.41(B) comes from the inclusion of the term “jurisdiction *over such highways.*” For “[t]he public highways of the state shall be divided into three classes: state roads, county roads, and township roads.” R.C. 5535.01. “County roads include all roads which are or may be established as part of the county system of roads as provided in sections 5541.01 to

5541.03, inclusive, of the Revised Code, which shall be known as the county highway system. Such roads shall be maintained by the board of county commissioners.” R.C. 5535.01(B). And R.C. 5553.02 provides that “[t]he board of county commissioners may locate, establish, alter, widen, straighten, vacate, or change the direction of roads as provided in sections 5553.03 to 5553.16 of the Revised Code. This power extends to all roads within the county, except that as to roads on the state highway system the approval of the director of transportation shall be had.” Given that boards of county commissioners locate, establish, alter, widen, straighten, vacate, change the direction of, and maintain roads in a county, it is reasonable to conclude that county roads are under the *jurisdiction* of the board of county commissioners for purposes of R.C. 4519.41(B).

In sum, in reference to county roads, a board of county commissioners is the “local authority” for purposes of R.C. 4519.41(B). Thus, the board of county commissioners is charged with deciding whether to permit snowmobiles, off-highway motorcycles, and all-purpose vehicles from operating on the highways of the county.

Accordingly, it is my opinion, and you are hereby advised that:

The phrase “local authority,” R.C. 4519.41(B), when used in connection with highways in a county, refers to the board of county commissioners.

Respectfully,



DAVE YOST
Ohio Attorney General