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ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

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FILE NO. S-1500

MOTOR VEHICLES:
Local Group Soliciting
Contributions at Highway
Intersection in City

Honorable Terrence J. Hopkins
State's Attorney
Franklin County
202 West Main Street
Benton, Illinois 62812

Dear Mr. Hopkins:

I am in receipt of your letter wherein you ask the following questions:

1. Does Section 11-1006 of the Illinois Vehicle Code (Ill. Rev. Stat. 1979, ch. 95 1/2, par. 11-1006) prohibit local school groups and organizations such as baseball organizations from soliciting contributions at a four-way intersection in a city, which intersection is not a state highway?

2. Can a city adopt an ordinance allowing local school groups or organizations such as baseball organizations to solicit funds at intersections other than state highway intersections without complying with Sections (c)(1), (2), (3) of Section 11-1006?

3. Does the term "highway" when used in Section 11-1006 mean all streets in the State of Illinois as opposed to state highways?"

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For the reasons hereinafter stated, it is my opinion that a local school group or organization is prohibited from soliciting contributions at a four-way intersection in a city, notwithstanding the fact that the intersection is not a State highway, unless the local group is part of a statewide fund raising activity and all of the other requirements set out in subsection 11-1006(c) of the Illinois Vehicle Code (Ill. Rev. Stat. 1979, ch. 95 1/2, par. 11-1006(c)) are complied with. It is also my opinion that a municipality may not enact an ordinance permitting solicitations in violation of section 11-1006; and that the term "highway" as used in section 11-1006 means all streets in the State open to public use and not merely State highways.

Section 11-1006 of the Illinois Vehicle Code (Ill. Rev. Stat. 1979, ch. 95 1/2, par. 11-1006) provides in pertinent part:

"

* * *

(c) No person shall stand on a highway for the purpose of soliciting contributions from the occupant of any vehicle except within a municipality when expressly permitted by municipal ordinance. Solicitation on highways within this State shall be allowed only at intersections where all traffic is required to come to a full stop. The soliciting agency shall be:

1. registered with the Attorney General as a charitable organization as provided by 'An Act to regulate solicitation and collection of funds for charitable purposes, providing for violations thereof, and making an appropriation therefor', approved July 26, 1963, as amended;

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2. engaged in a Statewide fund raising activity; and

3. liable for any injuries to any person or property during the solicitation which is causally related to an act of ordinary negligence of the soliciting agent.

Any person engaged in the act of solicitation shall be 16 years of age or more and shall be wearing a high visibility vest.

* * *

The term "highway", for purposes of chapter 11 of the Code (Ill. Rev. Stat. 1979, ch. 95 1/2, par. 11-100 et seq.), is defined in section 11-100 thereof as:

* * *

The entire width between boundary lines of every way or place of whatever nature when any part thereof is open to the use of the public as a matter of right for purposes of vehicular traffic. * * *

* * *

(Emphasis added.)

The term "highway" when used in chapter 11 therefore means all streets in the State and includes all areas between their boundary lines. This conclusion is confirmed by the fact that the legislature did not use the more specific term "State highway", which is defined in section 1-196 of the Code (Ill. Rev. Stat. 1979, ch. 95 1/2, par. 1-196).

Prior to July 1, 1970, when the Illinois Vehicle Code repealed the Vehicle Law of 1957 (P.A. 76-1586 and P.A. 76-1734), there were no statutes pertaining to pedestrians soliciting

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contributions, although the solicitation of rides was prohibited. (Ill. Rev. Stat. 1969, ch. 95 1/2, par. 174.)

Contained in the new Vehicle Code was the following provision (Ill. Rev. Stat. 1969, ch. 95 1/2, par. 11-1006) which provided in pertinent part:

" * * *

(b) Outside a business or residence district, no person shall stand on or in the proximity of a roadway for the purpose of soliciting employment, business, or contributions from the occupant of any vehicle.

* * *

"

Public Act 79-857 amended section 11-1006 of the Code (Ill. Rev. Stat. 1975, ch. 95 1/2, par. 11-1006) by dropping the phrase "outside a business or residence district" and substituted "highway" for "roadway", thus instituting a blanket prohibition on pedestrian solicitations. Public Act 80-911 made a violation of section 11-1006 a Class A misdemeanor. Public Act 81-29 retracted the blanket prohibition but imposed certain conditions on pedestrian solicitations of contributions. (Ill. Rev. Stat. 1979, ch. 95 1/2, par. 11-1006.) The changes effected in section 11-1006 of the Illinois Vehicle Code over the past ten years evidence a clear legislative intent and policy that solicitation of contributions on public highways may be permitted but only under the conditions specified in section 11-1006.

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Further, sections 11-207 and 11-208.1 of the Code (Ill. Rev. Stat. 1979, ch. 95 1/2, pars. 11-207, 11-208.1) provide that all the provisions of the chapter are to be applied uniformly throughout the State and prohibit any local ordinances which are in conflict. Section 11-208.2 (Ill. Rev. Stat. 1979, ch. 95 1/2, par. 11-208.2) states that the limitations imposed in the Illinois Vehicle Code apply as well to home rule units, so that no municipality may enact an ordinance inconsistent with or in conflict with the provisions of the Code, unless there is express authorization to do so within the Code.

Very truly yours,

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