

August 9, 2000
OPINION 00-223

Honorable Larry G. Cox
Sheriff & Ex-Officio Tax Collector
Parish of Madison
100 North Cedar Street
Tallulah, LA 71282-3891

OPINION 00-223
8 BONDS – Surety
LSA-R.S. 32: 411; LSA-R.S. 32:411.1
We conclude that the legislative intent was
to not allow the sheriff to collect a bond fee
when an offender signs the promise to
appear section on a traffic citation.

Dear Mr. Cox:

This office is in receipt of your opinion request wherein you asked the following question:

May the sheriff require the payment of a bond fee in accordance with R.S. 33:1432(9) when an officer accepts a promise to appear on a traffic violation which releases the alleged offender on his own recognizance?

The provisions of Louisiana Driver's License Law, LSA-R.S. 32:411.1 et seq. will govern our response to the aforementioned question. Note that this statute was enacted after Attorney General Opinion 91-289 which stated in pertinent part that the sheriff could not collect an appearance bond authorized by R.S. 33:1432(9).

LSA-R.S. 32:411.1A(4) states in pertinent part:

Whenever any person who resides in this state is arrested and charged with a violation of the Louisiana Highway Regulatory Act or any municipal or parish ordinance regulating traffic in any parish or municipality such person shall be released on his own recognizance upon signing the promise to appear section of the traffic citation. This shall only apply to such persons who are not wanted for failure to appear in connection with other traffic citations or for whom a warrant has been issued for any other reason. If the offender fails to pay the fine by mail in advance of adjudication and fails to appear at the time and date indicated on the citation, the court may impose an additional penalty in an amount not to exceed the amount of the fine for the original violation.

The law permits the court to add additional fees if the named defendant does not pay the fine by mail, in advance of adjudication, nor appear at the time indicated in the citation.

However, the statute does not permit the collection of a bond fee when the offender is being released on his own recognizance upon signing the promise to appear section of the citation. Therefore having the offender pay a bond fee would be inconsistent with the overall effect of R.S. 32:411.1.

For this reason it is our opinion that the legislative intent was to not allow the sheriff to collect a bond fee when an offender signs the promise to appear section on a traffic citation.

Very truly yours,

RICHARD P. IEYOUNG
ATTORNEY GENERAL

BY: _____
MARTY WHITE
ASSISTANT ATTORNEY GENERAL

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Date Received:

Date Released: August 9, 2000

MARTY WHITE
ASSISTANT ATTORNEY GENERAL