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OFFICIAL OPINION NO. 37

December 17, 1971

Hon. Roger L. Singleton
Indiana State Representative
1409 Master Driver
Decatur, Indiana 46733

Dear Representative Singleton:

I am in receipt of your request for an Official Opinion regarding 1971 Public Law 141 which amends the Abandoned Vehicle Act to give authority to local governments to remove abandoned vehicles. You have posed the following questions:

"1. Does this extension of authority to smaller local governments, as mentioned in said Amendment, make the earlier Act available to them also?

"2. Was it intended that they be limited to the terms of the Amended chapter only?

"3. Are we then to assume that this Act does not apply if the vehicle is left there with the permission of the property owner, even though it qualifies as an abandoned or junk vehicle under the terms of this Act?"

ANALYSIS

Public Law 141 amends the Abandoned Vehicle Act [Acts of 1969, Ch. 374, as found in Burns' (1971 Supp.), Section 47-3501, *et seq.*, and IC 1971, 9-9-1-1, *et seq.*], by adding a new chapter concerning removal and disposal of abandoned vehicles by *local* governments, and states as its purpose:

"* * * to provide for the disposal of abandoned or junk vehicles which are discarded or otherwise permitted to remain on public property or *private property without the permission of the person having the right to possession of the property upon which the motor vehicle was left.*" (My emphasis)

The purpose of this Act is clear and unambiguous. It applies only to abandoned vehicles on public property or pri-

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vate property *without* the consent of the person having the right to possession of that property. It is a well-established rule of statutory construction in Indiana that:

“Where the language of the statute is clear in limiting its application to a particular class of cases and leaves no room for doubt as to the intention of the Legislature, there is no authority to transcend or add to the statute which may not be enlarged, stretched, or expanded, or extended to cognate or related cases not falling within its provisions.” *Poyser v. Strangland* (1952), 106 N. E. (2d) 390.

Further, Section 3 of Public Law 141 provides:

“* * * This Act does not supercede any law, but is to be construed as being supplementary.”

The Legislative intent is to provide for the removal and disposal of abandoned vehicles by local governments as a separate and distinct statute. Thus, the provisions of law applying to first and second class cities do not apply to local governments.

In answer to your third question, the statute clearly states that its purpose is to provide for the removal and disposal of abandoned vehicles on public property or *private property without the consent of the person having right to the possession of the property*. This is in contrast to the purpose of the Act relating to first and second class cities. That Act applies to any vehicles which are visible from a public place or public right-of-way. Thus, the two statutes are designed to apply under different circumstances. Public Law 141 was clearly intended to extend to private property *only* when the vehicle in question was there without the consent of the party having the right to possession of the property.

CONCLUSION

It is my official opinion that:

1. 1971 Public Law 141, which gives authority to local governments to remove abandoned vehicles, does not also give to local governments the same authority given to first

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and second class cities under the 1967 Abandoned Vehicle Act.

2. Local governments are limited to the scope of Public Law 141 in reference to abandoned vehicles.

3. Public Law 141 applies to abandoned vehicles on private property *only* when the vehicle is there *without* the consent of the party having right to possession of the property.