



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

GERALD C. MANN
~~WILLIAMSON~~
ATTORNEY GENERAL

Honorable Geo. H. Sheppard
Comptroller of Public Accounts
Austin, Texas

Dear Sir:

Opinion No. 0-1099

Re: Is the \$50.00 paid in by manufacturers of headlighting equipment for each headlight device submitted appropriated for the use of the University of Texas

Your request for the opinion of this department on the question of whether or not the \$50.00 paid in by manufacturers of headlighting equipment for each headlight device submitted for approval is appropriated for the use and benefit of the University of Texas in testing the headlight equipment has been received.

As you point out in your letter of July 8, this fund came into existence under an act of the Legislature in 1925 and is codified in Vernon's Annotated Texas Statutes as legislation under Article 6701, Section 5 reading as follows:

"Any person, firm or corporation may submit to the State Highway Commission a lens, reflector or headlight control device intended to make a headlight comply with the provisions of this Act, and make application that the same be tested as to conformity with the requirements of this Act. Upon such application being made, the State Highway Commission shall, upon notice to the applicant, submit such lens, reflector or headlight control device to the testing agency as herein designated with the request that such device be tested as to conformity with the requirements of this Act. Each such applicant shall, upon the filing of his application, pay to the State Highway Commission a fee of fifty dollars. All such fees shall be paid by the State Highway Commission into the State Treasury, and they shall be deposited in a fund to be known as the Highway Light Test Fund, and the State Treasurer shall keep such fund separate. The moneys in such fund, or so much of them as may be necessary, shall be used to meet the expense of

the tests as herein provided, and for such use they are hereby appropriated, and the balance thereof, if any, shall be paid into the State Highway Fund. Moneys in the Highway Light Test Fund shall be spent under the direction of the State Highway Commission, and may be spent only to defray the expenses of testing by the testing agency herein provided for."

This Section Constitutes a valid appropriation, but of course, it was effective for two years only. Constitution of Texas, Art. VIII, Section 6. Atkins vs. State Highway Department, 201 S.W. 226.

Your letter states that the question arises as to whether the general appropriation appropriating money for the Highway Department also makes a specific appropriation for the use of this Highway Light Text Fund for the use of the University of Texas. In an opinion dated May 3, 1938, to Hon. Julian Montgomery, State Highway Department, Assistant Attorney General W.B. Pope held that the duty of supervising and approving lenses and reflectors under Article 6701 had been transferred to the Department of Public Safety at the time that department was created by act of the Legislature. Upon investigation of the departmental appropriations made by the 45th Legislature, we find that no specific appropriation appears in any bill for the use of this Highway Light Test Fund. It is therefore the opinion of this department that the money paid into this fund is not now appropriated for the use of the University of Texas in testing the headlight equipment.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/Ross Carlton
Ross Carlton
Assistant

RC:jm:wc

APPROVED JUL 26, 1939
s/W. F. Moore
FIRST ASSISTANT
ATTORNEY GENERAL

Approved Opinion Committee By s/TDR Chairman