



DAVIS COUNTY ATTORNEY

MELVIN C. WILSON

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AUG 20 1996

DEPARTMENT OF ENVIRONMENTAL HEALTH

August 19, 1996

To: Richard L. Harvey, Director
 Environmental Health and Laboratory Division
 Davis County Health Department
 Davis County Court House, Room 24
 28 East State Street
 Farmington, UT 84025

Legal Opinion

This opinion is written in response to your recent request for a legal opinion from this office regarding the authority of Davis County to enact and enforce an ordinance regulating vehicle emissions. Several provisions set forth in *Utah Code Ann.* are relevant:

- § 17-5-229 Enables the Board to make and enforce "*all such local, police, building, and sanitation regulations as are not in conflict with general laws.*"
- § 17-5-263 Enables the Board to pass all ordinances and rules and make regulations "*necessary and proper to provide for the safety, and preserve the health, promote the prosperity, improve the morals, peace, and good order, comfort, and convenience of the county and its inhabitants, and for the protection or property in the county...The county legislative body may pass ordinances to control air pollution.*"
- § 19-2-121 This section of the *Utah Air Conservation Act* specifically enables the County to "*enact and enforce ordinances to control air pollution that are consistent*" with the Act.
- § 41-6-163.6 Enables the Board to *make rules regarding emissions standards, test procedures, inspections stations, repair requirements* to attain or maintain ambient air quality standards.

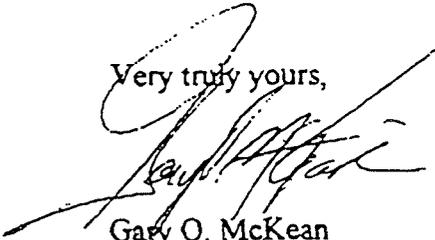
In addition, the Davis County Health Department, and therefore its Environmental Health and Laboratory Division, have statutory authority under § 26A-1-108, *Utah Code Ann.*, to enforce all state health laws, rules, regulations, and standards within the County and under § 26A-1-114, *Utah Code Ann.*, to enforce all state laws, local ordinances, department rules, and local health standards and regulations relating to public health.

X, Part B. App. 3.1

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Based upon the foregoing, it is our opinion that the Davis County Board of County Commissioners has the lawful authority under state law to enact and enforce an ordinance establishing an enhanced vehicle emissions inspection and maintenance program.

Very truly yours,



Gary O. McKean

Deputy Davis County Attorney

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DAVIS COUNTY
OFFICE OF THE COUNTY ATTORNEY
FARMINGTON, UTAH 84025

RODNEY S. PAGE
COUNTY ATTORNEY

December 15, 1983

Mr. Brent Bradford
Executive Secretary
Air Conservation Committee
150 West North Temple
Salt Lake City, Utah 84103

RECEIVED
DEC 16 1983
Utah Dept.
Environmental Affairs

Dear Mr. Bradford:

It is my understanding that the Davis County Motor Vehicle Inspection/Maintenance Ordinance is being submitted to the Air Conservation Committee to be adopted as a part of Utah State plan. It is my further understanding that the Davis County Motor Vehicle Inspection/Maintenance Ordinance which is being submitted to you was adopted by the unanimous vote of the Board of Davis County Commissioners on December 14, 1983.

This office has assisted the Davis County Health Department in drafting the Inspection/Maintenance Ordinance and we have reviewed the ordinance which has been passed by the Davis County Commission.

Section 41-6-163.6 Utah Code Annotated (1953) as amended states in part,

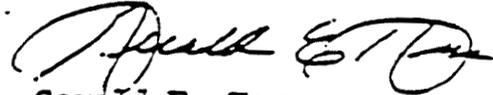
"After December 31, 1983, the governing body of of each county required under federal law to utilize an emissions inspection and maintenance program for motor vehicles shall require that a certificate of emissions inspections or a waiver or other evidence that the motor vehicle is exempt from emissions inspection and maintenance program requirements be presented at the time of and as a condition precedent registration or renewal of registration of a motor vehicle."

The Davis County Motor Vehicle Inspection/Maintenance Ordinance was adopted as a result of the enactment of the above cited Section. It is the opinion of this office that the newly enacted State statute grants to the Davis County Commission authority to adopt an ordinance which has county-wide application. Consequently, the ordinance adopted by the Davis County Commission on December 14, 1983, is enforceable in the incorporated area of Davis County as well as the unincorporated area.

It is the opinion of this office that the Davis County Motor Vehicle Inspection/Maintenance Ordinance complies full with all aspects of §41-6-163.6 Utah Code Annotated (1953) as amended and further that the ordinance is legally enforceable throughout Davis County.

Should you have questions regarding this matter, I would be pleased to discuss them with you at your convenience.

Very truly yours,



Gerald E. Hess
Deputy Davis County Attorney

GEH/ljs