

### Automobiles, Speed Of.

Section 1, of Chapter 101, Laws 1905, prohibits the running of automobiles within the limits of a city, within the thickly settled or business part of any town, as the same is defined by Section 4710, Political Code, or within any fire limits, when established, in any unincorporated town or village, as provided in Section 3237, Political Code, at a speed exceeding eight miles an hour.

Helena, Montana, July 26, 1905.

W. T. McKeown, Esq., County Attorney, Kalispell, Montana.

Dear Sir:—Your letter of the 20th instant, requesting an opinion on Section 1, of Chapter 101, laws of 1905, relating to the speed of automobiles, to hand. This section is somewhat ambiguous and in order to clearly understand the terms therein used it is necessary to refer to a similar law of Massachusetts, which was used as a precedent in drawing this law. Chapter 32, revised laws of Massachusetts, provides, among other things, for the establishment of fire districts. Section 49 of said law reads as follows:

“Fire departments may be established in districts which contain not less than one thousand inhabitants, and the officers thereof shall have charge of, and be responsible for, the apparatus for the extinguishment of fire therein, in the same manner as fire wards and enginemen of towns.”

In 1903 Massachusetts enacted a law, Chapter 473, regulating the speed of automobiles, etc. Section 8 of this law reads, in part, as follows:

“No automobile or motor cycle shall be run on any public way \* \* outside of the limits of a city or the thickly settled or business part of a town or fire district at a speed exceeding fifteen miles per hour, or within a city or the thickly settled or business part of a town or fire district at a speed exceeding ten miles per hour.”

It is plain from the above sections what was intended in Massachusetts by the term “fire districts;” that is they cannot run an automobile anywhere within the limits of a city at a speed exceeding ten miles per hour, nor in any fire district, as established by said Chapter 32, nor in any thickly settled or business part of a town.

In this state we have a statute classifying cities and towns according to population. A city is any incorporated municipality having a population of over one thousand. All other incorporated municipalities are towns, if they have a population of over three hundred and less than one thousand. (Sec. 4710, Political Code.) From this section it is clear

that Section 1, of said Chapter 101, prohibits the running of an automobile anywhere within the limits of a city or anywhere within the thickly settled or business part of a town at a speed exceeding eight miles an hour. Our statute nowhere defines or uses the term "fire district," and these words were no doubt used in the drafting of said Chapter 101 simply because they were used in the law of Massachusetts, which was substantially copied. However, we have a section which in some ways covers the same ground as that covered by fire districts in Massachusetts. Section 3237, Political Code, provides:

"The board of county commissioners are authorized to establish the fire limits in any unincorporated town or village, and at the time of the annual levy of taxes may levy a special tax upon all the property within such limits for the purpose of buying apparatus and maintaining the fire department of any such town or village, and such tax must be collected as are other taxes."

Here, you will notice, the term "fire limits" is used instead of "fire districts." We, therefore, hold that the law prohibits the running of automobiles anywhere within the limits of a city or within the thickly settled or business part of any town, as such cities and towns are defined by said Section 4710, at a speed exceeding eight miles an hour, and that the law further prohibits the running of any automobile within any fire limits, when established, in any unincorporated town or village, as provided in said Section 3237, at a speed exceeding eight miles an hour.

Yours very truly,

ALBERT J. GALEN,  
Attorney General.