

(7) "Adult" means a person other than a child.

The current definition of "delinquent child," as used in Ch. 39, F. S., is found in §39.01(12) as amended by §2 of Ch. 73-231, which reads as follows:

(12) "Delinquent child" means a child who commits a violation of law, regardless of where the violation occurred, except a child who commits a juvenile traffic offense and whose case has not been transferred to the circuit court by the court having jurisdiction.

Incidentally, §39.10(4), F. S., as amended by §16 of Ch. 73-231, provides that an adjudication by a court that a child is a delinquent child shall not be deemed a conviction of crime, and §39.11(3), F. S., as amended by §17 of Ch. 73-231, prescribes the various ways in which a court may deal with a child adjudged by it to be a delinquent child.

It is apparent from the above-quoted definitions that a seventeen-year-old person charged with committing a crime after becoming seventeen is an adult not subject to being dealt with as a delinquent child. It necessarily follows that such a person is subject to prosecution as an adult unless the Adult Rights Law requires a different result.

The Adult Rights Law, Ch. 73-21, *supra* [§743.07, F. S.], provides in pertinent part that:

Section 2.

The disability of nonage is hereby removed for all persons in this state who are 18 years of age or older and they shall enjoy and suffer the rights, privileges and obligations of all persons 21 years of age or older except as otherwise excluded by the Constitution of the State of Florida immediately preceding the effective date of this act. Provided, however, this act shall not prohibit any court of competent jurisdiction from requiring support for a dependent person beyond the age of 18 years; and provided further that any crippled child as defined in chapter 391, Florida Statutes, shall receive benefits under the provisions of said chapter until age 21, the provisions of this act to the contrary notwithstanding.

The said Adult Rights Law has nothing to do with the question at hand. On its face, it applies only to persons eighteen years of age or older.

It is true that §2 of Ch. 73-231, *supra*, amends §39.01, *supra*, so as to cause subsection (6) thereof to read as follows:

(6) "Child" means any married or unmarried person under the age of eighteen years, or any person who is charged with a violation of law occurring prior to the time that person reached the age of eighteen years.

but that statutory provision will not go into effect until July 1, 1974, because §23 of said Ch. 73-231 provides:

Section 23. This act shall take effect July 1, 1973, except that the definition of "child" in Section 39.01(6) shall not take effect until July 1, 1974.

073-451—November 30, 1973

DEPARTMENT OF TRANSPORTATION
AUTHORITY TO SET SPEED LIMITS

To: Walter Revell, Secretary, Department of Transportation, Tallahassee

Prepared by: Staff

QUESTION:

Does the Department of Transportation have the authority under §316.181(2), F. S., or any other statute, to establish reduced statewide speed limits for either all highways within the state or all highways on the state-maintained system?

SUMMARY:

Pending legislative or judicial clarification, the Department of Transportation may fix the speed limits on roads in the state highway system, including connecting links and extensions thereof, for the purpose of conserving fuel.

Section 316.181(2), F. S.—adopted by the 1971 Uniform Traffic Control Act, Ch. 71-135, Laws of Florida (Ch. 316, F. S.)—vests in the Department of Transportation the authority to

... set such maximum and minimum speed limits for travel over those roadways under its authority as it deems safe and advisable, not to exceed as a maximum limit seventy miles per hour.

An identical provision—but relating only to the Florida Turnpike Authority—was adopted in 1957 as a part of Ch. 57-316, Laws of Florida. The 1957 act, among others, amended §317.22, F. S., so as to establish definite speed limits of 30 miles per hour in business and residential districts and 65 miles per hour outside of those districts. (Prior to that time, a speed in excess of those limits was only prima facie evidence of reckless driving.) The 1957 act reenacted without substantial change what is now §316.181(1), F. S. (formerly §317.24(1), F. S. 1957; §317.241(1) F. S. 1963), authorizing the department to establish a “reasonable and safe” speed limit either greater or less than the statutory speed limit at intersections or other parts of a highway, and added a new subsection (2), granting to the Florida Turnpike Authority the authority to set maximum and minimum speeds on turnpikes, but not to exceed a maximum of seventy miles per hour. The Florida Turnpike Authority was transferred to the department by a type three transfer under the 1969 Governmental Reorganization Act, Ch. 69-106, Laws of Florida, so that the department succeeded to all the “statutory powers, duties and functions” of the authority under the 1969 act. *See* §§20.06 and 20.23(11), F. S.

It is a well-settled rule of statutory construction that the legislature should never be presumed to have intended to enact purposeless, and therefore useless, legislation. *See Sharer v. Hotel Corporation of America*, 144 So.2d 813 (Fla. 1962). Thus, in specifically granting to the department in the 1971 act the authority to set the speed limits “over those roadways under its authority,” the legislature could not have intended to limit the department’s speed-fixing authority only to highways that were formerly under the control of the Florida Turnpike Authority. Under §316.182, *id.*, the governing body of a city or a county may change the speed limit as to a city- or county-maintained road after investigation determines that such a change is reasonable and in conformity with criteria promulgated by the department, except that “no changes shall be made on state highways or connecting links or extensions thereof, which shall be changed only by the department of transportation.” It necessarily follows, then, that the department’s power to alter the speed limit of “roadways under its authority” extends to roads that are a part of the state highway system, including connecting links and extensions thereof.

I have not overlooked the fact that, in authorizing the department to change the maximum or minimum speed limits to a level which, in its opinion, is “safe and advisable,” the legislature could not have had in mind the situation which prompted your request—that is, the current fuel shortage and the apparent necessity for reducing the speed of motor vehicles to conserve fuel. However, in the Florida Transportation Code, Ch. 334, F. S., the legislature has vested broad

authority in the department, with the declared intent to make the department the "custodian of the state highway and transportation systems" and to provide it with "sufficiently broad authority to enable the department to function adequately and efficiently in all areas of appropriate jurisdiction, subject to the limitations of the constitution and the legislative mandate hereinafter imposed," §334.02(5), *id.*, including, among others, "taking all necessary steps to ensure safe and convenient transportation" on the public roads and streets of this state. Section 334.02(8), *id.* And in light of this broad authority, I am inclined to the view that the department's authority to fix the speed limits on roads in the state highway system at whatever is safe and advisable in a particular situation may be exercised in the circumstances here present.

Legislative clarification of the department's authority in this respect is, of course, advisable; however, pending legislative or judicial clarification, your question is answered accordingly.

073-452—December 5, 1973

ADULT RIGHTS LAW

PERSONS EIGHTEEN YEARS OF AGE AND OLDER WORKING AS FIREMEN

To: Board of Supervisors, Old Dixie Fire Control Tax District No. 2, Lake Park

Prepared by: Joseph C. Mellichamp III, Assistant Attorney General

QUESTION:

What effect does Ch. 73-21, Laws of Florida, the Adult Rights Law, have on a fire district's requirement that a person applying for employment as a fireman be twenty-one years of age or older?

SUMMARY:

Under the provisions of Ch. 73-21, Laws of Florida, a person eighteen, nineteen, or twenty years of age, if otherwise qualified, can apply for employment and serve as a district fireman.

Section 2 of Ch. 73-21, Laws of Florida [§743.07, F. S.], provides that:

The disability of nonage is hereby removed for all persons in this state who are 18 years of age or older and they shall enjoy and suffer the rights, privileges and obligations of all persons 21 years of age or older except as otherwise excluded by the Constitution of the State of Florida immediately preceding the effective date of this act

Further, §4 of Ch. 73-21, *supra*, states that "[a]ny law inconsistent herewith is hereby repealed to the extent of such inconsistency."

Thus, inasmuch as the Adult Rights Law (effective July 1, 1973) removes the disability of nonage for all persons in this state who are eighteen years of age or older and provides that they shall enjoy and suffer the rights, privileges, and obligations of all persons twenty-one years of age or older, it must be concluded that a person eighteen, nineteen, or twenty years of age, if otherwise qualified, can apply for employment and serve as a district fireman.