

Office of the Attorney General
State of North Dakota

Opinion No. 82-73

Date Issued: October 21, 1982

Requested by: John A. Richardson
Commissioner of Higher Education

--QUESTION PRESENTED--

Whether Section 39-01-09 of the North Dakota Century Code prohibits an institution of higher education from installing parking meters on a publicly owned parking lot located on campus.

--ATTORNEY GENERAL'S OPINION--

It is my opinion that Section 39-01-09, N.D.C.C., does not prohibit an institution of higher education from installing parking meters on a publicly owned parking lot located on campus.

--ANALYSIS--

Section 39-01-09, N.D.C.C., has its origin in the passage of an initiated measure in June of 1948. The text of this initiated measure is found in 1949 N.D. Sess. Laws 357. Section 1 of the initiated measure provided:

From and after the passage of this measure, it shall be unlawful for the state of North Dakota, its political subdivisions, counties, cities, villages, and the state highway department to establish and maintain any mechanical device or devices known as 'parking meters', or by whatever name designated, requiring the deposit therein of coins or tokens for the privilege of parking cars or other vehicles upon the streets and highways in the state of North Dakota.

The resulting prohibition banned the erection and maintenance of money-operated parking meters on the public streets and highways of this jurisdiction. The statute's application, by its own terms, is limited to public streets and highways and does not encompass publicly owned parking lots. This conclusion is further supported by the legislative definition in effect at the time the initiated measure was approved by the electorate. Subsection 23 of Section 39-0101 of the North Dakota Revised Code of 1943 encompassed the word 'street' within the definition of roadway, and provided:

'Highway or roadway' shall include every way or place of whatever nature open to the public as a matter of right for the purpose of vehicular travel. Such terms shall not be

deemed to include a roadway or driveway upon grounds owned by private persons, colleges, universities, or other institutions;'

--EFFECT--

This opinion is issued pursuant to Section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts or the applicable provisions of law are amended or repealed.

Robert O. Wefald
Attorney General

Prepared by: Myron E. Bothun
Assistant Attorney General