



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

February 5, 1976

ATTORNEY GENERAL OPINION NO. 76- 50

The Honorable T. D. Saar, Jr.
State Senator
3rd Floor - State Capitol Building
Topeka, Kansas 66612

Re: Crimes--Tampering with Traffic Signals--Railroad Signals

Synopsis: K.S.A. 21-3725 does not clearly distinguish between the intentional manipulation, alteration, destruction or removal of any signal device enumerated therein which is permissible, such as intentional conduct by persons acting properly and within the express scope of their employment, and intentional manipulation, alteration, destruction and removal which is performed for wrongful purposes. K.S.A. 21-3726 does not clearly specify whether it is limited to motor vehicle traffic control devices, or whether it extends also to devices for the control and direction of railroad, aircraft and watercraft traffic, as enumerated in K.S.A. 21-3725.

* * *

Dear Senator Saar:

K.S.A. 21-3725 states thus:

"Tampering with a traffic signal is intentionally manipulating, altering, destroying or removing any light, sign, marker, or other signal device erected or installed for the purpose of controlling or directing the movement of motor vehicles, railroad trains, aircraft or watercraft."

Tampering with a traffic signal is a class C misdemeanor.

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K.S.A. 21-3726 states thus:

"Aggravated tampering with a traffic signal is tampering with a traffic signal which results or could result in a traffic accident causing the death or great bodily injury of any person."

Aggravated tampering with a traffic signal is a class E felony.

You advise that it has been brought to your attention that certain railroad officials have been reported to have tampered with railroad signal devices, altering them, removing lights and lenses, thereby creating false indications. You inquire whether any person, including a railroad official, is in violation of one or both of these statutes if he tampers with a traffic signal by manipulating, altering, destroying or removing any light, sign, marker, railroad switching device or other signal device erected or installed for the purpose of controlling or directing the movement of motor vehicles, railroad trains, aircraft or watercraft.

Obviously, in the course of employment, it may be the duty of railroad officials and employees to manipulate such devices in order to control and direct railroad traffic. K.S.A. 21-3725 does not specifically define the prohibited conduct in such a fashion to distinguish intentional manipulation, alteration, or removal of a signal device in the course of employment and for the express purpose of controlling and directing traffic, from improper intentional manipulation, alteration or removal of such devices.

K.S.A. 21-3726 defines the offense of aggravated tampering with a traffic signal only with reference to traffic signals. K.S.A. 8-1478, of the Uniform Act Regulating Traffic on Highways, defines the term "traffic-control signal" as

"any device, whether manually, electrically or mechanically operated, by which traffic is alternatively directed to stop and permitted to proceed."

It is not clear whether K.S.A. 21-3726 extends to lights, signs, markers and other signal devices which are erected or installed for the purpose of directing motor vehicle traffic only, or whether

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it also extends to such devices which are provided for the direction or control of the movement of railroad trains, aircraft and watercraft, in addition to motor vehicle traffic. It speaks expressly only of traffic signals, and it does not expressly enumerate railroad trains, aircraft or watercraft as does K.S.A. 21-3725.

I suggest that consideration be given to legislative clarification of these two provisions, to define more precisely the conduct which is prohibited by K.S.A. 21-3725, and the traffic control devices to which K.S.A. 21-3726 applies.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj