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August 9, 1979

ATTORNEY GENERAL OPINION NO. 79-170

Sheriff F. T. "Jim" Chaffee
Shawnee County Sheriff's Department
Shawnee County Courthouse
Topeka, Kansas 66603

Re: Automobiles and Other Vehicles -- Equipment of Vehicles --
Display of Lights on Parked Vehicles

Synopsis: K.S.A. 8-1716 requires vehicles to display headlights when such vehicles are parked upon a roadway during the hours between a half hour after sunset and a half hour before sunrise and there is insufficient light to reveal any person or object within a distance of one thousand (1,000) feet. Such requirement applies to law enforcement vehicles.

K.S.A. 8-1716 does not apply to situations where a law enforcement vehicle is parked in a private drive for the purpose of radar traffic enforcement.

* * *

Dear Sheriff Chaffee:

You request our opinion regarding the application of K.S.A. 8-1716. Specifically you have inquired whether the statute applies to law enforcement officers engaged in radar traffic enforcement. Additionally you also have asked whether subsection (b) of the above statute can be interpreted so as to require citizens who park their vehicles on city streets overnight to also display the vehicle's parking lights.

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Subsections (b) and (c) of K.S.A. 8-1716 are pertinent to your inquiry, providing:

"(b) Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half hour after sunset and a half hour before sunrise, and in the event there is sufficient light to reveal persons and vehicles within a distance of one thousand (1,000) feet upon such street or highway, no lights need be displayed upon such parked vehicle.

"(c) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between a half hour after sunset and a half hour before sunrise and there is insufficient light to reveal any person or object within a distance of one thousand (1,000) feet upon such highway, such vehicle so parked or stopped shall be equipped with and shall display lamps meeting the requirements of subsection (a)."

Initially, it should be pointed out that our research discloses no authority to per se exempt law enforcement vehicles from the foregoing statutory provisions. K.S.A. 8-1506 sets forth the privileges for drivers of authorized emergency vehicles. Among these is the privilege to "park or stand, irrespective of the provisions of this article," K.S.A. 8-1506(b)(1). However, the exemptions granted to an emergency vehicle "shall apply only when such vehicle is making use of an audible signal . . . and visual signals." K.S.A. 8-1506 (c).

What constitutes a violation of K.S.A. 8-1716 cannot be determined in the abstract. That is, this statute does not proscribe parking a vehicle at night on a street or highway without having its parking lights illuminated. Rather, it proscribes such parking only under specified circumstances, i.e., where "there is insufficient light to reveal any person or object within a distance of one thousand (1,000) feet upon such highway," then a parked vehicle must display its parking lamps. Thus, to determine compliance with the statute requires knowledge of the existing lighting conditions. It is a factual question, and without knowing whether there was "insufficient light" within the meaning of the statute, we cannot speculate as to compliance or non-compliance with the statute's requirements. This statement is equally true with respect to law enforcement officers engaged in radar traffic enforcement.

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and private citizens who park their vehicles overnight on city streets. Without full and complete knowledge of the existing conditions, we cannot speculate as to compliance with the statute's requirements.

You also have asked whether K.S.A. 8-1716 applies to a law enforcement officer engaged in radar traffic enforcement while parked in a private driveway. Please note that K.S.A. 8-1716, quoted above, applies to highways.

The term "highway" is defined by K.S.A. 8-1424, as follows:

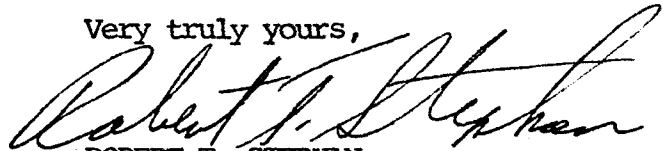
" 'Highway' means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel."

K.S.A. 8-1451 relates a private road or driveway is as follows:

"Means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons."

Based upon the above statutes, it appears evident that the requirements of K.S.A. 8-1716 do not apply to vehicles parked in private drives. A private driveway would not be considered a highway. Therefore, in our opinion, K.S.A. 8-1716 has no applicability in situations wherein a law enforcement officer is parked in a private drive.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Elsbeth D. Schafer
Assistant Attorney General

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