



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

December 15, 1983

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 83-180

John Horst
Caney City Attorney
Caney, Kansas 67333

Re: Automobiles and Other Vehicles--Act Regulating
Traffic; Rules of the Road--Overtaking and Passing
School Buses

Schools--Transportation of Students--Transportation
Routes

Synopsis: Local boards of education are not required to provide
school bus loading areas which allow school buses
to be stopped entirely off the roadway portion of
all city streets.

In addition, while K.S.A. 8-1556(b) and Section 81
of Article 12 of the Uniform Standard Traffic
Ordinance for Kansas Cities prohibit a school bus
driver from activating the flashing warning signal
lamps on the bus when the bus is stopped entirely
off the roadway in designated school bus loading
areas, the same subsections of law expressly autho-
rize those lamps to be activated when the bus is
stopped on a roadway to receive or discharge students.

Finally, an area on and along a city street, which
is part of the roadway of the street, continues to be
a part of the roadway, although the area is posted
as a no parking zone. The stopping of a school
bus on this portion of a city street to receive
or discharge children has no effect on the school
bus driver's authority to activate the flashing
warning signal lamps on the bus. Cited herein:
K.S.A. 8-1459, 8-1556, K.S.A. 72-8301, K.A.R. 1983
Supp. 36-13-33, Kan. Const., Art. 6, §5.

*

*

*

John Horst
Page Two

Dear Mr. Horst:

At the direction of the governing body of the city of Caney, you seek our opinion on a number of questions concerning the stopping of school buses at the local elementary school to receive or discharge students. Specifically, you inquire whether the school bus drivers may activate the flashing warning signal lamps on the buses while children are entering or departing the buses at the elementary school; whether a portion of the roadway of the city street upon which school buses stop to load and unload children, which is posted as a "no parking zone" during school hours, should be considered an area "off the roadway" under K.S.A. 8-1556 and its counterpart, Article 12, Section 81 of the Uniform Standard Traffic Ordinances for Kansas Cities, which has been adopted by the city of Caney; and, finally, whether the local school board is required to provide a school bus loading area for children, which allows buses to be stopped entirely off the roadway portion of all city streets.

In correspondence sent to our office, including photographs of the four streets which bound the property on which the elementary school is located, there is much discussion as to that which the board of education could do concerning the place at which the buses stop and the manner in which children are transported by the school district. This information, however, involves policy questions and is not germane to the legal issues presented by your inquiry.

Neither state or local law enforcement officers, private citizens, nor anyone else [except the governing body of a city which may enact reasonable local ordinances controlling the use of city streets], has the authority to compel the local board of education to adopt any prescribed point at the school location as the point at which children are to enter or depart school buses, or to dictate to the board of education the procedures by which the school district should provide transportation for children of the school district. These matters, by state law, are under the control, and are left to the sound discretion, of the locally-elected board of education. See Kan. Const., Art. 6, Sec. 5 and K.S.A. 72-8301 et seq.

This leads to a discussion of your inquiry concerning whether the local school board must provide a school bus loading area which is entirely off the roadway portion of all city streets. This question, along with the others you pose, arises from the provisions of K.S.A. 8-1556 and Article 12, Section 81 of the Uniform Standard Traffic Ordinances for Kansas Cities (USTO). The statute provides, in part:

"(a) The driver of a vehicle meeting or overtaking from either direction any school bus stopped on the highway shall stop before reaching such school bus when there is in operation on said school bus the flashing red lights specified in subsection (a) of K.S.A. 8-1730, and said driver shall not proceed until such school bus resumes motion or said driver is signaled by the school bus driver to proceed or the flashing red lights and the stop signal arm are no longer actuated.

"(b) Every school bus shall be equipped with red visual signals meeting the requirements of subsection (a) of K.S.A. 8-1730, which may be actuated by the driver of said school bus whenever but only whenever such vehicle is stopped on the highway for the purpose of receiving or discharging school children. A school bus driver shall not actuate said special visual signals:

"(1) At intersections or other places where traffic is controlled by traffic-control signals or police officers; or

"(2) In designated school bus loading areas where the bus is entirely off the roadway."
(Emphasis added.)

The ordinance contains the same provisions as the statute which are emphasized above.

Our attention has not been called to any requirement of law, and we find none, which mandates that "school bus loading areas," sufficiently large to permit school buses to be stopped "entirely off the roadway," be designated. The above-quoted statute and the provisions of the local ordinance merely prescribe what shall be done if such an area has been designated. They do not require the designation of such an area. Moreover, K.A.R. 1983 Supp. 36-13-33(a) (1) merely prescribes that the "loading and unloading of students onto and off of school buses shall be conducted off the roadway, highway or street, in an area way from vehicular traffic, whenever possible." (Emphasis added.) Of course, this direction to school bus drivers does not impose a duty upon any local board of education. Thus, finding no requirement of law mandating such action, we conclude that a local board of education is not required to designate a school bus loading area, sufficient in size to permit a school bus to be stopped entirely off the roadway portion of all city streets.

John Horst
Page Four

Turning, now, to your inquiry about whether the posting of an area along a city street, which street, from curb to curb, is a roadway, as a no parking zone during school hours renders that area to be "off the roadway," we fail to see how the mere posting of such an area as a no parking zone could possibly render that area to not continue to be a part of the roadway. A "roadway" is defined in K.S.A. 8-1459 as "that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder." Thus, if a portion of a highway is improved, designed or ordinarily used for vehicular travel, it is a roadway. That parking on a roadway is prohibited during a certain period of time does not effect its status as a roadway.

Thus, in response to your inquiry, we conclude that an area on and along a city street which is part of the roadway of the street continues to be a part of the roadway, although the area is posted as a no parking zone.

Your final inquiry is whether school bus drivers may activate the flashing warning signal lamps on the buses while children are entering or departing the school buses at the elementary school located in Caney. You inform us that the school buses of your local school district, while receiving and discharging children at the elementary school, are stopped on Taylor Street in the city of Caney. It also appears that the entire width of Taylor Street is improved, designed and ordinarily used for vehicular traffic. Given these facts, we have no hesitancy in concluding that, under the provisions of K.S.A. 8-1556(b) and Section 81 of Chapter 12 of the USTO, quoted-above, the school bus drivers may take the action mentioned above.

In summary, it is our opinion that local boards of education are not required to provide school bus loading areas which allow school buses to be stopped entirely off the roadway portion of all city streets.

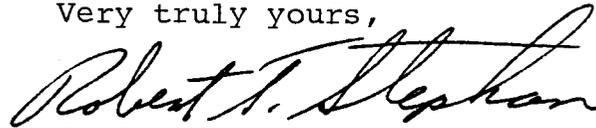
In addition, while K.S.A. 8-1556(b) and Section 81 of Article 12 of the Uniform Standard Traffic Ordinances for Kansas Cities prohibit a school bus driver from activating the flashing warning signal lamps on the bus when the bus is stopped entirely off the roadway in designated school bus loading areas, the same subsections of law expressly authorize those lamps to be activated when the bus is stopped on a roadway to receive or discharge students.

Finally, an area on and along a city street which is part of the roadway of the street continues to be a part of the roadway, although the area is posted as a no parking zone. The stopping

John Horst
Page Five

of a school bus on this portion of a city street to receive or discharge children has no effect on the school bus driver's authority to activate the flashing warning signal lamps on the bus.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Rodney J. Bieker
Assistant Attorney General

RTS:BJS:RJB:jm