



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 89- 49

The Honorable B. D. Kanan
State Senator, Fifth District
511 Garfield
Kansas City, Kansas 66102

The Honorable Bill Wisdom
State Representative, Thirty-First District
1915 So. 29th St. Court
Kansas City, Kansas 66106

The Honorable Hank Turnbaugh
State Representative, Thirty-Ninth District
5044 County Line Road
Kansas City, Kansas 66106

Re: Automobiles and Other Vehicles--Uniform Act
 Regulating Traffic; Powers of State and Local
 Authorities--Provisions of Act Uniform Throughout
 State; Local Traffic Regulations

Synopsis: Pursuant to the provisions of K.S.A. 8-2001, local authorities (including cities) may adopt additional traffic regulations prohibiting "U-turns" where such regulations do not conflict with the provisions of the Uniform Act Regulating Traffic on Highways. Under the Uniform Act, no such ordinance regulating or prohibiting the turning of vehicles shall be effective until official traffic control devices giving notice of such local traffic regulation are erected upon or at the entrances to the highway or part thereof affected. K.S.A. 8-2002(a)(9) and (c). Accordingly, an ordinance which prescribes additional circumstances under which U-turns are prohibited (i.e. the ordinance

sets forth limitations in addition to those prescribed by K.S.A. 8-1546) is not effective until official traffic control devices giving notice of such prohibition are erected. Thus, subsections (1), (3) and (4) of section 35-323 of the Kansas City Municipal Code, which impose additional prohibitions on U-turns in the absence of official traffic control devices giving notice of such prohibitions, conflicts with subsection (c) of K.S.A. 8-2002, and is invalid pursuant to K.S.A. 8-2001. Cited herein: 8-1546; 8-2001; 8-2002.

* * *

Dear Senator Kanan and Representatives Wisdom and Turnbaugh:

You request our opinion as to the validity of subsections (1), (3) and (4) of section 35-323 of the Kansas City Municipal Code. Section 35-323 restricts U-turns, and provides as follows:

"Sec. 35-323. U-turns, when no signs; where prohibited.

"The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction:

"(1) At any intersection at which traffic is controlled by a traffic control sign.

"(2) Upon any curve or upon the approach to or near the crest of a grade where such vehicle cannot be seen by the driver of another vehicle approaching from either direction within five hundred (500) feet."

"(3) Upon any street in a business district.

"(4) Upon any through highway or through street or any controlled-access highway.

"(5) Upon any other street unless such movement can be made in safety and without interfering with other traffic."

Subsections (2) and (5) of the above-quoted ordinance are clearly valid in that they parallel the provisions of K.S.A. 8-1546 (part of the Uniform Act Regulating Traffic on Highways), which provides as follows:

"(a) The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without interfering with other traffic.

"(b) No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within 500 hundred feet."

The question is whether the restrictions set forth in subsections (1), (3) and (4) are valid in the absence of official traffic control devices giving notice of such local regulations. In this regard, K.S.A. 8-2001 prohibits any "local authority" (which term includes cities-see K.S.A. 8-1432) from enacting or enforcing any ordinance in conflict with the uniform act regulating traffic on highways:

"The provisions of this act shall be applicable and uniform throughout this state and in all cities and other political subdivisions therein, and no local authority shall enact or enforce any ordinance in conflict with the provisions of this act unless expressly authorized; however, local authorities may adopt additional traffic regulations which are not in conflict with the provisions of this act." (Emphasis added.)

K.S.A. 8-2002 empowers local authorities to adopt additional regulations concerning the turning of vehicles under the following conditions:

"(a) The provisions of this act shall not be deemed to prevent the local authorities with respect to streets and highways under their jurisdiction and within the

reasonable exercise of the police power
from:

. . . .

"(9) Regulating or prohibiting the turning
of vehicles or specified types of
vehicles;

"(c) No ordinance, resolution or
regulation enacted under paragraph
. . . (9) . . . of subsection (a) of this
section shall be effective until official
traffic control devices giving notice of
such local traffic regulations are erected
upon or at the entrances to the highway or
part thereof affected as may be most
appropriate."

In accordance with the above-quoted statutes, it is our
opinion that local authorities (including cities) may adopt
additional traffic regulations prohibiting U-turns where such
regulations do not conflict with the provisions of the uniform
act regulating traffic on highways. Under the uniform act, no
such ordinance regulating or prohibiting the turning of
vehicles shall be effective until official traffic control
devices giving notice of such local traffic regulations are
erected upon or at the entrances to the highway or part
thereof affected. K.S.A. 8-2002(a)(9) and (c). Accordingly,
an ordinance which prescribes additional circumstances under
which U-turns are prohibited (i.e. the ordinance sets forth
limitations in addition to those prescribed by K.S.A. 8-1546)
is not effective until official traffic control devices are
erected in accordance with subsection (c) of K.S.A. 8-2002.
Thus, subsections (1), (3) and (4) of section 35-323 of the
Kansas City Municipal Code, which impose additional
prohibitions on U-turns in the absence of official traffic
control devices giving notice of such prohibitions, conflict
with subsection (c) of K.S.A. 8-2002, and are invalid pursuant
to K.S.A. 8-20021.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Terrence R. Hearshman
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