



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

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

October 7, 1980

ATTORNEY GENERAL OPINION NO. 223

Mr. James L. Robinson  
Assistant City Attorney  
City of Overland Park  
City Hall  
8500 Santa Fe Drive  
Overland Park, Kansas 66212

Re: Automobiles and Other Vehicles -- Accidents and Accident  
Reports -- Investigation of Accidents on Private Property

Synopsis: The provisions of Article 16 of Chapter 8 of Kansas Statutes  
Annotated, regarding the reporting and investigation of  
vehicular accidents, apply to strictly private property, as  
well as public highways, public property and private property  
open to the public. Cited herein: K.S.A. 8-1424, 8-1501,  
K.S.A. 1979 Supp. 8-1567, K.S.A. 8-1601.

\*

\*

\*

Dear Mr. Robinson:

You request our opinion whether Kansas state law imposes a mandatory  
requirement that law enforcement agencies investigate vehicular accidents  
which occur on private property. In essence, your inquiry concerns the  
scope and extent of the pertinent statutory provisions regarding the  
reporting and investigation of vehicle accidents, which are found in  
Article 16 of Chapter 8 of Kansas Statutes Annotated. The scope of  
this article is set forth in K.S.A. 8-1601, which provides:

Mr. James L. Robinson  
Page Two  
October 7, 1980

"The provisions of this article shall apply upon highways and elsewhere throughout the state."  
(Emphasis added.)

Complementing K.S.A. 8-1601, the term "highway" is defined by K.S.A. 8-1424 to include all public roadways:

" '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 the purposes of vehicular traffic."

Since the meaning of "highway" is clear, it is apparent that the vital phrase in determining the scope of Article 16 is "elsewhere throughout the state." In State v. Budden, 226 Kan. 150 (1979), this phrase was construed by the Kansas Supreme Court as including private property. In so doing, the Court considered the following provisions of K.S.A. 8-1501 prescribing inter alia the scope of K.S.A. 1979 Supp. 8-1567, which prohibits the operation of a motor vehicle while under the influence of intoxicating liquor:

"The provisions of this article relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except:

. . . .

"(b) The provisions of K.S.A. 8-1566 to 8-1568, inclusive, . . . shall apply upon highways and elsewhere throughout the state." (Emphasis added.)

In Budden, the Court determined that the "DWI statute" applied throughout the state, including private as well as public property. Such determination was predicated on the following interpretation of the above-quoted provisions of K.S.A. 8-1501:

"We conclude that the words 'elsewhere throughout the state' in K.S.A. 8-1501 mean at any other place within the state including strictly private property as well as public highways, public property and private property open to the public." 226 Kan. at 154  
(Emphasis by the court.)

Mr. James L. Robinson  
Page Three  
October 7, 1980

In reaching this conclusion, the Court cited numerous cases from other jurisdictions reaching similar results. The Court found particularly persuasive the holding in People v. Stansberry, 242 Cal.App.2d 199, 51 Cal.Rptr. 403 (1966), which construed a California statute (Cal. Veh. Code, §20000) prescribing the scope of succeeding statutes pertaining to vehicular accidents. Being substantially similar in wording to K.S.A. 8-1601, it provides: "The provisions of this division apply upon highways and elsewhere throughout the State, unless expressly provided otherwise." (Emphasis added.) The California court concluded that "elsewhere throughout the state" means elsewhere than on highways, noting that, because of the all-inclusive definition of "highway" in the California Vehicle Code, "there would have been no need for the words 'and elsewhere' had the Legislature intended to restrict the locus to a public highway." 242 Cal.App.2d at 202.

We find these cases persuasive in responding to your inquiry. Even though the Budden case construed the provisions of K.S.A. 8-1501, we find such construction to be equally applicable to 8-1601 because of the near identity of the relevant provisions of these statutes. Moreover, it is to be noted that both statutes are sections of the Uniform Act Regulating Traffic on Highways (see K.S.A. 8-2204). This fact provides further support for our conclusion. Being parts of the same code, these statutes are in pari materia. As stated in 2A Sutherland Statutory Construction §51.03 at 299:

"Statutes may be deemed to be in pari materia whether independent or amendatory in form; whether in the form of a complete enactment dealing with a single, limited subject matter or of sections in a code or revision; or any combination of these." (Footnote omitted.)

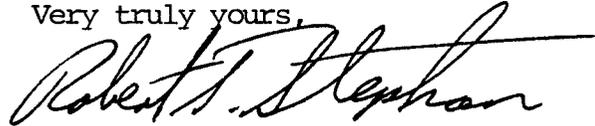
Being statutes in pari materia, K.S.A. 8-1501 and 8-1601 must be construed together in order to ascertain legislative intent. In re Estate of Bowman, 172 Kan. 17, 25 (1951). Moreover, as stated in Williams v. Board of Education, 198 Kan. 115, 124, 125 (1967):

"Ordinarily, identical words or terms used in different statutes on a specific subject are interpreted to have the same meaning in the absence of anything in the context to indicate that a different meaning was intended. Likewise, other sections of the same act in which the same word or phrase is used may be resorted to as an aid in determining the meaning thereof." (Citation omitted.) (Emphasis added.)

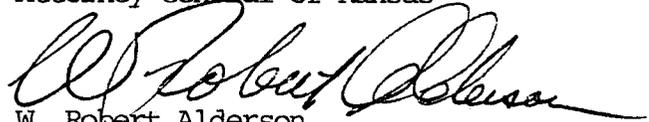
Mr. James L. Robinson  
Page Four  
October 7, 1980

Based on the foregoing, therefore, it is our opinion that the provisions of Article 16 of Chapter 8 of Kansas Statutes Annotated, regarding the reporting and investigation of vehicular accidents, apply to strictly private property, as well as public highways, public property and private property open to the public.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



W. Robert Alderson  
First Deputy Attorney General

RTS:WRA:may