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July 12, 1985

ATTORNEY GENERAL OPINION NO. 85- 82

Micheal A. Ireland  
Jackson County Attorney  
Jackson County Courthouse, Room 205  
Holton, Kansas 66436

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

Synopsis: An ordinance which allows a vehicle on a two-way  
road to park with the left hand wheels parallel to  
and within twelve (12) inches of the left hand curb  
conflicts with subsection (a) of K.S.A. 8-1572, and  
is invalid pursuant to K.S.A. 8-2001. Cited herein:  
K.S.A. 8-1432, 8-1572, 8-2001, 8-2002.

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Dear Mr. Ireland:

You request our opinion concerning regulation of traffic in the  
City of Holton. Specifically, your questions are as follows:

"1. Whether or not the City of Holton can  
change their traffic ordinances to allow under  
K.S.A. 8-1572 for the left hand wheels to be  
parked within twelve inches of a left hand  
curb or as close as practicable to the left  
hand edge of the shoulder. That would then

make the car being on the left hand side of the road for parking purposes.

2. Whether or not the City Commissioners have any affirmative duty to require the Police Chief to strictly enforce the letter of the law as to parking regulations for vehicles which are parked on the left hand side of the road with their left hand wheels close to the left shoulder."

K.S.A. 8-1572 is part of the Uniform Act Regulating Traffic on Highways, and subsection (a) thereof provides as follows:

"Except as otherwise provided in this section, every vehicle stopped or parked upon a two-way roadway shall be so stopped or parked with the right-hand wheels parallel to and within twelve (12) inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder." (Emphasis added.)

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:

"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 states that the Uniform Act "shall not be deemed to prevent local authorities with respect to streets and highways under their jurisdiction and within reasonable exercise of the police power from . . . [r]egulating or prohibiting stopping, standing or parking."

In construing the above-quoted sections of the Uniform Act Regulating Traffic on Highways, we are bound to follow established rules of statutory construction recognized in this state. A summary statement of the rules pertinent here is found in Brown v. Keill, 224 Kan. 195 (1978), as follows:

"The fundamental rule of statutory construction, to which all others are subordinate, is that the purpose and intent of the legislature governs when that intent can be ascertained from the statute, even though words, phrases or clauses at some place in the statute must be omitted or inserted. (Farm & City Ins. Co. v. American Standard Ins. Co., 220 Kan. 325, Syl. ¶3, 552 P.2d 1363 [1976].) In determining legislative intent, courts are not limited to a mere consideration of the language used, but look to the historical background of the enactment, the circumstances attending its passage, the purpose to be accomplished and the effect the statute may have under the various constructions suggested. (State, ex rel., v. City of Overland Park, 215 Kan. 700, Syl. ¶10, 527 P.2d 1340 [1974].) In order to ascertain the legislative intent, courts are not permitted to consider only a certain isolated part or parts of an act but are required to consider and construe together all parts thereof in pari materia. When the interpretation of some one section of an act according to the exact and literal import of its words would contravene the manifest purpose of the legislature, the entire act should be construed according to its spirit and reason, disregarding so far as may be necessary the literal import of words or phrases which conflict with the manifest purpose of the legislature. (Kansas Commission on Civil Rights v. Howard, 218 Kan. 248, Syl. ¶2, 544 P.2d 791 [1975].)" 224 Kan. at 199, 200.

Additionally, it is well established that statutes in pari materia should be construed together so as to harmonize their respective provisions, if reasonably possible to do so. Callaway v. City of Overland Park, 211 Kan. 646, 650 (1973).

Applying these rules, it is our opinion that a city's authority to regulate parking under K.S.A. 8-2002 is limited by the language of K.S.A. 8-2001, and that no city may enact a parking ordinance which conflicts with any section of the Uniform Act Regulating Traffic on Highways. In our judgment, an ordinance which allows a vehicle upon a two-way road to park with the left

hand wheels parallel to and within twelve inches of the left  
hand curb conflicts with subsection (a) of K.S.A. 8-1572, and is  
invalid pursuant to K.S.A. 8-2001.

In regard to your second question, the police chief and all  
police officers are under a general duty to enforce the law. See  
Dauffenbach v. City of Wichita, 233 Kan. 1028, 1033 (1983).  
While such officers should exercise discretion in enforcing the  
law, no officer may enforce any ordinance or policy which  
conflicts with K.S.A. 8-1572.

Very truly yours,



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Terrence R. Hearshman  
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RTS:JSS:TRH:jm