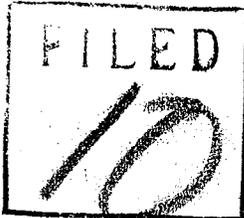


**MOTOR VEHICLES:** Provisions relating to mechanical signalling devices as described in Section 304.019, RSMo  
**CRIMINAL LAW:** Cum. Supp. 1953, are applicable only to new vehicles registered in Missouri subsequent to January 1, 1954.



September 3, 1954

Honorable Gordon R. Boyer  
Prosecuting Attorney  
Barton County  
Lamar, Missouri

Dear Sir:

Reference is made to your request for an official opinion of this department reading as follows:

"Section 304.019 amended laws of 1953 provides as follows:

"(4) The signals herein required shall be given either by means of the hand and arm or by a signal light or signal device in good mechanical condition of a type approved by the state highway patrol; however, when a vehicle is so constructed or loaded that a hand and arm signal would not be visible both to the front and rear of such vehicle then such signals shall be given by such light or device. A vehicle shall be considered as so constructed or loaded that a hand and arm signal would not be visible both to the front and rear when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load exceeds twenty-four inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereon exceeds fourteen feet, which limit of fourteen feet shall apply to single vehicles or combinations of vehicles. The provisions of this subdivision shall not apply to any trailer which does not interfere with a clear view of the hand signals of the operator or of the signalling device

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upon the vehicle pulling said trailer; provided further that the provisions of this section as far as mechanical devices on vehicles so constructed that a hand and arm signal would not be visible both to the front and rear of such vehicle as above provided shall only be applicable to new vehicles registered within this state after the first day of January, 1954." (Emphasis ours.)

"State Highway Patrol has issued an interpretation that if a vehicle is so constructed or loaded that a hand and arm signal can not be visible then the failure to have a signal light is a violation of the Statute regardless of when the vehicle was registered. It is my opinion that this is an interpretation which completely eliminates the last provided clause and that such interpretation is contrary to the Statute.

"In other words it is my opinion that the requirement for signal devices apply only to vehicles registered after January, 1, 1954.

"Will you please advise me if this is correct."

We here have a statute penal in nature for construction, unambiguous in its terms, and containing a proviso exempting from other portions of the statute certain motor vehicles. The statute quoted in your letter of inquiry, including the proviso appended thereto, contains clear and unambiguous language. In these circumstances, the application of rules of construction to ascertain the meaning of such statutes and the intent of the General Assembly in enacting the same is not required. In fact, to do so is beyond the province not only of this office but of the judicial branch of the government. We direct your attention to State v. Hawk, 228 S.W. 2d 785, where at page 789 we read:

"\* \* \* The language of the statute is clear and unambiguous, and we have no right to read into it an intent which is contrary to the legislative intent made evident by the phraseology employed. \* \* \*"

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The same rule extends to the interpretation of provisos, as was held in *Smith v. Pettis County*, 136 S.W. 2d 282, l.c. 287:

"\* \* \* There is no such implication here when the proviso is considered as it reads which we must do. *St. Louis Public Service Co. v. Public Service Comm.*, 326 Mo. 1169, 34 S.W. 2d 486. The language is too plain to permit any construction. *State ex rel. Jacobsmeyer v. Thatcher*, 338 Mo. 622, 92 S.W. 2d 640. \* \* \*"

This being a statute penal in nature, one further rule we believe should be brought to your attention. The rule applicable to statutes of this nature is that they must be construed strictly against the State and liberally with respect to persons said to have been guilty of their violation. We direct your attention to *State v. Dougherty*, 216 S.W. 2d 467, where at l.c. 471 we find the rule stated in the following language:

"!Criminal statutes are to be construed strictly; liberally in favor of the defendant, and strictly against the state, both as to the charge and the proof. No one is to be made subject to such statutes by implication.' \* \* \*"

Applying the foregoing rules to the statute under consideration, particularly the proviso thereof, we find that such proviso has the effect of limiting the application of the statute, insofar as it relates to mechanical signalling devices, to such new vehicles as may be registered within the State of Missouri subsequent to the first day of January, 1954.

#### CONCLUSION

In the premises, it is our opinion that the provisions relating to mechanical signalling devices as described in Section 304.019, RSMo Cum. Supp. 1953, are applicable only to new vehicles registered in the State of Missouri subsequent to January 1, 1954.

Honorable Gordon R. Boyer

The foregoing opinion, which I hereby approve, was prepared by my assistant, Will F. Berry, Jr.

Yours very truly,

John M. Dalton  
Attorney General

WFB/vtl