

MOTOR VEHICLE  
CRIMINAL LAW:

A motor vehicle operator who fails to stop on signal of a member of the State Highway Patrol, or otherwise willfully fails or refuses to obey any reasonable signal or direction given in the direction of traffic has committed a moving violation and should have two points assessed against his driving record by the Director of Revenue.

January 9, 1970

OPINION NO. 68

Mr. James E. Schaffner  
Acting Director of Revenue  
Department of Revenue  
Jefferson Building  
Jefferson City, Missouri 65101



Dear Mr. Schaffner:

This is in response to your request for an opinion on the following questions:

- "a. Is a failure or refusal of a motor vehicle operator or driver to stop on signal, or otherwise fail or refuse to obey any other reasonable signal or direction of a member of the State Highway Patrol given in directing the movement of traffic on the highways, a moving violation as contemplated under the provisions of Section 302.302, RSMo.?"
- "b. If the above described offense is considered a moving violation, should 2 points be assessed against the driver record of an offender convicted of that offense?"

The pertinent provisions of Section 302.302, RSMo Supp. 1967 are as follows:

- "1. The director of revenue shall put

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into effect a point system for the suspension and revocation of chauffeurs' and operators' licenses. Points shall be assessed only after a conviction or forfeiture of collateral. The initial point value is as follows:

(1) Any moving violation of a state law or county or municipal traffic ordinance not listed in this section, other than a violation of vehicle equipment provisions.... 2 points . . . "

A moving violation is defined in Section 302.010 (10), RSMo Supp. 1967 as:

" . . . that character of traffic violation where at the time of violation the motor vehicle involved is in motion, except that the term does not include the driving of a motor vehicle without a valid motor vehicle registration license, or violations of sections 304.170 to 304.240, RSMo, inclusive, relating to sizes and weights of vehicles;"

To determine whether a violation of Section 43.170, RSMo 1959, which reads:

"It shall be the duty of the operator or driver of any vehicle or the rider of any animal traveling on the highways of this state to stop on signal of any member of the patrol and to obey any other reasonable signal or direction of such member of the patrol given in directing the movement of traffic on the highways. Any person who willfully fails or refuses to obey such signals or directions or who willfully resists or opposes a member of the patrol in the proper discharge of his duties shall be guilty of a misdemeanor and on conviction thereof shall be punished as provided by law for such offenses."

is a "moving violation," one must first determine whether a violation of that section would be a "traffic" violation. The phrase "traffic violation" is not defined in the statutes

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and has not received judicial interpretation.

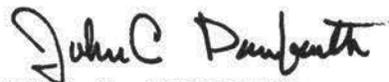
We note from Section 43.025, RSMo 1959, that ". . . the primary purpose of the highway patrol is to enforce the traffic and promote safety upon the highways." We, therefore, are of the opinion that in the event Section 43.170 is violated by a person operating a motor vehicle; such person has committed that character of traffic violation which under the statutes is a moving violation subject to the provisions of Section 302.302, RSMo 1959. Because Section 302.302, RSMo Supp. 1967 does not make specific mention of that offense, two points should be assessed against the offender pursuant to Section 302.302--(1), RSMo Supp. 1967.

#### CONCLUSION

It is the opinion of this office that a motor vehicle operator who fails to stop on signal of a member of the State Highway Patrol, or otherwise willfully fails or refuses to obey any reasonable signal or direction given in the direction of traffic has committed a moving violation and should have two points assessed against his driving record by the Director of Revenue.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Charles A. Blackmar.

Very truly yours,



JOHN C. DANFORTH  
Attorney General