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1. TRAFFIC CONTROL SIGNAL UPON EXTENSION OF STATE HIGHWAY SYSTEM WITHIN VILLAGE — WITH EXCEPTION, SECTION 4511.11 RC, SECTION 6307.11 GC, NO LEGAL REQUIREMENT FOR MUNICIPALITY TO OBTAIN PERMISSION FROM DIRECTOR OF HIGHWAYS TO PLACE TRAFFIC CONTROL DEVICE TO REGULATE TRAFFIC ON STATE ROUTE WITHIN MUNICIPALITY.
2. DIRECTOR OF HIGHWAYS AUTHORIZED TO ERECT STATE HIGHWAY ROUTE MARKERS AND TO DIRECT TRAFFIC AS HE THINKS PROPER WITHIN MUNICIPALITY—NOT AUTHORIZED TO REGULATE TRAFFIC ON STATE ROUTES WITHIN MUNICIPALITY OR CONTROL MUNICIPAL CORPORATIONS IN REGULATION OF TRAFFIC—SECTION 5511.01 RC, SECTION 1178-20 GC.
3. MUNICIPALITY NOT REQUIRED TO OBTAIN PERMISSION OF DIRECTOR OF HIGHWAYS TO FORBID LEFT HAND TURN AT INTERSECTION OF STATE ROUTES WITHIN MUNICIPALITY.

## SYLLABUS:

1. With the exception provided by Section 4511.11, Revised Code, Section 6307-11, General Code, as to a village desiring to place a traffic control signal upon an extension of the state highway system within such village, there is no requirement of law that a municipality first obtain the permission of the director of highways before placing a traffic control device, regulating traffic under a local traffic ordinance, on a state route within such municipality.

2. The provisions of Section 5511.01, Revised Code, Section 1178-20, General Code, authorizing the director of highways to "erect state highway route markers and such other signs directing traffic as he thinks proper" within municipal corporations does not authorize the director of highways to regulate traffic on state routes within such municipal corporations or in any way to control such municipal corporations in the regulation of traffic.

3. A municipality, therefore, need not obtain the permission of the director of highways in order to lawfully forbid a left hand turn at the intersection of state routes within such municipality.

Columbus, Ohio, September 29, 1953

Hon. S. O. Linzell, Director, Department of Highways  
Columbus, Ohio

Dear Sir:

I have before me your request for my opinion reading as follows:

"Section 1178-20 G. C. (5511.01 R. C.) authorizes the Director of Highways to establish routes through municipal corporations and when so established are 'declared to be state highways and a part of the state highway system'. Said section, in the concluding paragraph, provides that with the exception of the authority conferred upon the director to erect state highway markers 'and signs directing traffic', that no provision of the act shall be held to in any way modify, limit or restrict the authority conferred by the General Code under Section 3714 G. C. (723.01 R. C.).

"The language of the section has been construed by the department to mean that on state highways the Director of Highways may control traffic. However, in certain municipalities where there are two intersecting state highways, by ordinances, said municipalities have refused to permit left turns.

"The seriousness of the situation is demonstrated by the following letter which the Chief Engineer of the Division of Traffic and Safety has received from a Division Engineer, which reads:

'We have in this division some twenty locations in various cities where the local authorities have prohibited left turns at intersections of U. S. and State Highways. One city prohibits all turns except one, during peak periods only. In many cases a temporary or permanent loop around the square is impossible, which places foreign traffic under a handicap by these restrictions.

'We do not mind the restrictions if there are streets available to temporary mark and guide traffic around the square, but when they are not available or the streets that could be used are in poor condition, we seem to be carrying the burden of complaints.

'Please advise if the cities have the authority to place restrictions of this nature without a public hearing or permission of the Director of Highways'.

"Apparently said municipalities construe Section 6307-7 G. C. (4511.07 R. C.) as their authority to regulate the traffic on state highways.

“In view of the foregoing will you please advise whether or not municipalities may regulate the traffic on state highways within municipalities when such regulation is in conflict with the signs directing traffic erected by the Director of Highways.”

There, of course, can be no question as to the power and authority of a municipal corporation, in the proper exercise of its police power, to enact ordinances regulating traffic, including ordinances prohibiting vehicles from making left hand turns at designated intersections.

This basic power is derived from Article XVIII, Section 3 of the Ohio Constitution which reads:

“Municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws.”

Such power has been recognized by the General Assembly in the enactment of the Uniform Traffic Act, Sections 4511.01 to 4511.99, Revised Code, Sections 6307-1 to 6307-110, General Code, and particularly by Section 4511.07, Revised Code, Section 6307-7, General Code. Section 4511.07 reads in part:

“Sections 4511.01 to 4511.78, inclusive, 4511.99 and 4513.01 to 4513.37, inclusive, of the Revised Code do not prevent local authorities from carrying out the following activities with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power: \* \* \*

“\* \* \* (B) Regulating traffic by means of police officers or traffic control devices; \* \* \*”

“Traffic control devices” are defined by Section 4511.01, paragraph (NN), Revised Code, as meaning “all signs, signals, markings and devices placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic, including signs denoting names of streets and highways.”

Section 4511.11, Revised Code, reads as follows:

“Local authorities in their respective jurisdictions may place and maintain traffic control devices upon highways under their jurisdictions as are necessary to indicate and to carry out sections 4511.01 to 4511.78, inclusive, and 4511.99 of the Revised Code, *local traffic ordinances*, or to regulate, warn, or guide traffic. No

village shall place or maintain any traffic control signal upon an extension of the state highway system within such village without first obtaining the permission of the director of highways. The director may revoke such permission and may remove or require to be removed any traffic control signal which has been erected without his permission on an extension of a state highway within a village, or which, if erected under a permit granted by the director, does not conform to the state manual and specifications, or which is not operated in accordance with the terms of the permit. All traffic control devices erected after September 6, 1941, shall conform to the state manual and specifications.”

(Emphasis added.)

Section 4511.12 provides:

“No pedestrian, driver of a vehicle, or operator of a street-car or trackless trolley shall disobey the instructions of any traffic control device placed in accordance with sections 4511.01 to 4511.78, inclusive, and 4511.99 of the Revised Code, unless at the time otherwise directed by a police officer. When both traffic control signals and stop signs are erected at intersections, traffic shall be governed by the traffic control signal while it is in operation.

“No provision of such sections for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place.”

It is clear, therefore, that these sections of the Uniform Traffic Act fully recognize the power of a municipal corporation to *regulate* traffic by means of “traffic control devices”. It will be noted that the only control of the director of highways over municipalities in this regard is the provision of Section 4511.11 that no village shall place or maintain any traffic control signal upon an extension of the state highway system within such village without first obtaining the permission of the director of highways.

It is equally clear that under the Uniform Traffic Act the “jurisdiction” of local authorities to place traffic control devices includes the jurisdiction to place such devices on extensions of the state highway system within a municipality, with the single limitation as to traffic control signals within villages as noted above. That the General Assembly intended that the basic “jurisdiction” of “state routes” within municipi-

palities be in the local authorities of such municipalities is further indicated by the fact that whereas "state route" is defined as meaning "every highway which is designated with an official state number and so marked," Section 4511.01, paragraph (HH), Revised Code, "state highway" is defined as "a highway under the jurisdiction of the department of highways, outside the limits of municipal corporations \* \* \*" Section 4511.01, paragraph (GG), Revised Code.

Your question in essence, therefore, is whether despite the broad powers given municipal corporations by Article XVIII, Section 3, of the Constitution, and despite the obvious intent of the General Assembly in the enactment of the Uniform Traffic Act not to interfere, beyond the limitations specifically provided therein, with the power of such municipal corporations to regulate traffic by means of police officers or traffic control devices, such power is limited by the language of Section 5511.01, Revised Code (Section 1178-20, General Code).

Section 5511.01, Revised Code, reads in pertinent part :

"\* \* \* The state highway routes into or through municipal corporations, as designated or indicated by state highway route markers erected thereon on October 11, 1945, are state highways and a part of the state highway system. The director may erect state highway route markers and such other signs directing traffic as he thinks proper upon those portions of the state highway system lying within municipal corporations, and the consent of such municipal corporations to such erection and marking shall not be necessary. No change in the route of any highway through a municipal corporation shall be made except after notice and hearing. No duty of constructing, reconstructing, maintaining, and repairing such state highways within municipal corporations shall attach to or rest upon the director; but he may enter upon such state highways within any municipal corporation and construct, reconstruct, widen, improve, maintain, and repair the same provided the municipal corporation first consents thereto by resolution of its legislative authority. The director shall place in the files of the department a record of the routes of all such state highways within municipal corporations, and shall cause them to be corrected and revised to show all changes and additions to the date of such correction. A copy of such record or any pertinent part thereof, certified by the director to be a true and correct copy, shall be admissible in evidence in any court of the state for the purpose of proving the existence and location of any state highway within a municipal corporation.

“\* \* \* When the director proposes to change an existing state highway within a municipal corporation he shall mail to the mayor or other chief executive officer of such municipal corporation a copy of the notice which shall be mailed by first-class mail, postage prepaid, and registered with return receipt requested, at least two weeks before the time fixed for hearing.

“With the exception of the authority conferred upon the director by this section, to erect state highway route markers and signs directing traffic, Chapters 5501., 5503., 5505., 5511., 5513., 5515., 5517., 5519., 5521., 5523., 5525., 5527., 5529., 5531., and 5533. of the Revised Code, shall not in any way modify, limit, or restrict the authority conferred by section 723.01 of the Revised Code upon municipal corporations to regulate the use of streets and to have the care, supervision, and control of public highways, streets, avenues, alleys, sidewalks, public grounds, bridges, aqueducts and viaducts within such municipal corporation and to keep the same open, in repair, and free from nuisance.”

I believe the conclusion inescapable that the language of Section 5511.01 does not require a municipal corporation to seek permission of the director of highways in order to forbid a left hand turn at a point where two extensions of the state highway system intersect within the municipality. Bearing in mind the broad power given municipalities by Article XVIII, Section 3, of the Constitution and the entire scheme for the *regulation* of traffic set forth in the Uniform Traffic Act, it is clear that the authority of the director of highways to “erect state highway route markers and such other signs directing traffic as he thinks proper” within municipal corporations is merely an authorization to place directional signs indicating the location of state routes. By the use of the word, “other,” it is clear that the General Assembly considered “state highway route markers” to be “signs directing traffic.” Such “state highway route markers” of course, do not *regulate* traffic, but only direct it in the same sense that a map directs traffic. It follows, therefore, that the authorization of the director of highways to erect “other signs directing traffic” is limited, insofar as this section is concerned, to a similar type of sign. Such language cannot be construed as granting the director of highways any power to *regulate* traffic, the authority of the director in this regard being limited to that specifically conferred upon him by the Uniform Traffic Act.

The authority to *regulate*, of course, must include the authority to enforce. Section 5511.01 and related sections contain no language provid-

ing for punishment of one who drives a motor vehicle in disregard of "state highway route markers and such other signs directing traffic." It might be pointed out that, as contrasted with Sections 4511.07, 4511.11 and 4511.12, Revised Code, Section 5511.01 is placed in a series of sections which have nothing to do with the *regulation* of traffic. It must be concluded, therefore, that the director of highways is without power by means of "state highway route markers and such other signs directing traffic" to instruct a motorist to disregard a traffic control device of a municipal corporation placed on a state route pursuant to the specific authorization of Sections 4511.07 and 4511.11, Revised Code.

In specific answer to the question propounded by your letter, it is my opinion that:

1. With the exception provided by Section 4511.11, Revised Code, Section 6307-11, General Code, as to a village desiring to place a traffic control signal upon an extension of the state highway system within such village, there is no requirement of law that a municipality first obtain the permission of the director of highways before placing a traffic control device, regulating traffic under a local traffic ordinance, on a state route within such municipality.

2. The provisions of Section 5511.01, Revised Code, Section 1178-20, General Code, authorizing the director of highways to "erect state highway route markers and such other signs directing traffic as he thinks proper" within municipal corporations does not authorize the director of highways to regulate traffic on state routes within such municipal corporations or in any way to control such municipal corporations in the regulation of traffic.

3. A municipality, therefore, need not obtain the permission of the director of highways in order to lawfully forbid a left hand turn at the intersection of state routes within such municipality.

Respectfully yours,

C. WILLIAM O'NEILL  
Attorney General