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SIGNAL REQUIRED UNDER SECTION 6307-38 G. C.—WHEN OPERATOR OF MOTOR VEHICLE TURNS OR STOPS ON HIGHWAY—SUCH SIGNAL NEED NOT BE HAND SIGNAL.

SYLLABUS:

A signal is required under Section 6307-38, General Code, when an operator of a motor vehicle turns or stops on a highway but such signal need not be a hand signal.

Columbus, Ohio, October 11, 1949

Col. George Mingle, Superintendent, Ohio State Highway Patrol  
Columbus, Ohio

Dear Sir:

Your request for my opinion is as follows:

“We have been requested to clarify the misunderstanding that exists relative to signals when turning as appears in Sections 6307-38 and 6307-39.

“Section 6307-38, subsection b, reads as follows:

“‘A signal of intention to turn right or left shall be given in sufficient time in advance of the movement indicated to give ample warning to other users of the highway who would be affected by such movement.’

“Section 6307-39 reads:

“‘All signals herein required when given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

1. Left turn—Hand and arm extended horizontally.
2. Right turn—Hand and arm extended upward.
3. Stop or decrease speed—Hand and arm extended downward.'

"Permit me to call to your attention Section 6307-38, subsection b, demands that a signal be given, the type, however, is not specified.

"In Section 6307-39 the word when is used making it mandatory for the motor vehicle operator to use the hand signals as specified.

"We are, therefore, of the opinion that any signal in accordance with Section 6307-38 is permitted.

"Any clarification you might impart to us will be greatly appreciated."

As you state in your request Sections 6307-38 and 6307-39, General Code, seem to contain no mandatory provision requiring the operator of a motor vehicle to use hand signals. Section 6307-39, General Code, merely states in part that:

"All signals herein required *when* given by hand and arm shall be given \* \* \* ." (Emphasis added.)

Section 6307-38, General Code, requires a signal to be given but does not define the type necessary, and I am unable to find any other section of the Uniform Traffic Act (Sections 6307-1 to 6308, inclusive) which requires a hand signal. Section 6307-39, General Code, merely defines what a hand signal shall indicate.

Section 6310-22, General Code, repealed in 119 O. L. 766, 804, 94th General Assembly and found in 110 O. L. 135, 137, reads as follows:

"Drivers of vehicles before turning, stopping or changing their course shall make sure such movement can be made in safety and shall cause signals to be made of their intention in a way visible outside the vehicle."

Section 6310-22, *supra*, was analogous to Sections 6307-38 and 6307-39, General Code. In construing that section the Ohio Court of Appeals, speaking through Ross, P. J., in 73 O. App. 157, said in the third paragraph of the syllabus:

"A portion of the general charge in such case amplifying the provisions of Section 6310-22, General Code (110 Ohio Laws,

137), regarding the giving of some appropriate signal 'visible outside the vehicle' before turning, stopping or changing its course, by stating such signal may be made either by hand or mechanical device, is not erroneous, where the court read the statute to the jury and the plaintiff had testified that he had given an arm signal."

In the case of *Mercure v. Youngstown Sanitary Milk Co.*, 27 O. L. Abs. 159, the court on page 160 said as follows:

"It is said the court erred in its refusal to charge as requested on the matter of signaling with the hand outside the car upon making a turn out of traffic. Such signals do not have to be given by the hand. The statute says that such signals shall be given outside the vehicle. No manner of so doing is compulsory. The court did not err in its refusal to so charge. \* \* \*"

If the courts were of the opinion that Section 6310-22, General Code, as it then existed, did not require a hand signal, I cannot see how it could be said a hand signal is required under Sections 6307-38 and 6307-39, General Code. These statutes merely say a signal is required and "*when* given by hand." It does not say "shall be given by hand." It is therefore my opinion that although a signal is necessary, that signal does not have to be a hand signal.

My opinion is further strengthened by the fact that a great number of automobiles today have mechanical devices. These, I believe, are as effective as hand signals, in fact, some jurisdictions require that all automobiles operated in the state have mechanical signals. The legislature must have known of the existence of these laws, and was surely aware of the fact that automobiles of today do have mechanical signals.

Therefore in conclusion and in specific answer to your question, it is my opinion that while a signal is required under Section 6307-38, General Code, when an operator of a motor vehicle turns or stops on a highway, he is not required to give a hand signal.

Respectfully,

HERBERT S. DUFFY,  
Attorney General.