

Opinion No. 53-5837

November 5, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Chas. P. Dunwiddie, Director The Governor's Traffic Safety Co-ordinating Comm.
P.O. Box 4085 /- Coronado Station Santa Fe, New Mexico

{*254} This will acknowledge receipt of your letter of September 18, 1953 in which you wish to know whether, under Ch. 139, L. 1953, municipal authorities may permit a right turn on a red light.

As stated by you § 30 of the above mentioned law requires the State Highway Commission to adopt a manual and specifications for a uniform system of traffic safety control devices and § 52 of that law requires all municipal traffic control devices to conform to the manual prescribed by the State Highway Commission.

Your attention is called to the fact that the manual to be adopted by the State Highway Commission must be consistent with the provisions of Ch. 139, L. 1953 and where the system approved by the American Association of State Highway Officials is in any way inconsistent with Ch. 139, the manual to be adopted must abide by the provisions of law rather than by the system approved by the American Association of State Highway Officials.

The portion of the manual which you quote pertains to turns on red {*255} lights alone and is in conformity with § 34 (c), Ch. 139. Any traffic control signals hereafter erected may, therefore, not permit right turns to be made on a red light unless there is an auxiliary signal as provided in § 34 (c), Ch. 139. Inasmuch as the law itself provides for these auxiliary signals, it will be necessary for the manual to likewise so provide.

Your attention is also called to the provisions of § 32, Ch. 139, which limits the application of the state manual and specifications to "traffic control devices hereafter erected." This provision would apply only to such matters of traffic control as are not specifically prescribed by state law but which might be included in the manual. This provision is likewise not applicable to traffic control devices on highways under jurisdiction of the State Highway Commission inasmuch as absolute authority over traffic control devices on those highways is given to State Highway Commission under § 31 (c), Ch. 139.

In summary, by virtue of the specific provisions of § 34, Ch. 139, municipalities may not permit right turns on red lights unless the auxiliary signal provided by sub-section (d) thereof is also present, and insofar as highways under the jurisdiction of the State Highway Commission are concerned, all traffic control devices of whatever nature are subject to the approval of the State Highway Commission.

By: Walter R. Kegel

Assist. Attorney General