POLICE, INDIANA STATE: Penalty for failure to stop at preferential highways.  

February 9, 1938.

Hon. Don F. Stiver,  
Superintendent, Indiana State Police,  
Indianapolis, Indiana.

Dear Sir:

Your letter of February 9th sets out that, at a prosecutors' meeting called by Omer Stokes Jackson, Attorney General of Indiana, the question was raised relative to the right of an officer to arrest for failure to stop at preferential highways. You also point out that Judge Mann of the Muncie City Court dismissed a case filed by a state police officer on an arrest for failure to stop at a preferential street. You request an official opinion relative to the right of an officer to arrest for failure to stop at a preferential road and you also say you are especially interested in the penalty provision for failure to stop at such preferential street.

The right to designate certain highways as preferential and certain hazardous intersections as "stop" intersections is given to the state highway commission by part (c) of Section 2 of Chapter 126 of the Acts of the Indiana General Assembly for 1937. This part (c) provides:

"The state highway commission may designate certain highways as preferential highways, and the traffic upon any such highway so designated shall have the right-of-way over the traffic crossing over or turning into such highways. The state highway commission shall also have the authority to designate any hazardous intersection as a 'stop intersection,' and to require all traffic approaching any such intersection to come to a full stop before passing over. Any such intersection designated as a stop intersection shall be indicated by appropriate signs or automatic signal devices, and if signs are used on any such highway they shall be erected not less than fifty feet from the middle of the intersecting highway, and if such signs are erected on a road under jurisdiction of a board of county commissioners or a township trustee, such board of commissioners or township trustee is hereby prohibited from interfering with the erection of such signs or removing same."
It will be noticed that the State Highway Commission is given the power to make the designations of "stop intersections" and preferential highways and also is given the right to require all traffic approaching any such intersections to come to a full stop before passing over.

It is true that the above quoted part (c) of this Act has no penalty provision; however, it will be noticed that this said Chapter 126 is an amendment of Section 5 of Chapter 230 of the Acts of 1927, which, in turn, is an amendment of Section 53 of Chapter 213 of the Acts of 1925. Thus, then, the above quoted part (c) of said Acts of 1937 becomes a portion of the original Act of 1925 and is to be read in connection with said original 1925 Act. Section 59 of said 1925 Act, namely Chapter 123 of the Acts of the General Assembly for 1925, is known as the general penalty provision. The Indiana General Assembly for 1927, by Section 1 of Chapter 135, amended Section 59 of Chapter 213 of the Acts of 1925 by reducing the minimum penalty. The general penalty provision as it now reads since the amendment of 1927 is as follows:

"Any person who shall violate any of the provisions of this Act for which no specific penalty is provided shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in any sum not less than One Dollar ($1.00) and not more than Five Hundred Dollars ($500), to which may be added imprisonment for a term of not to exceed one (1) year."

This general penalty provision of the Acts of 1925 as amended by the Acts of 1927 has never been repealed and has been carried forward and is in force today.

As was pointed out before, part (c) of Section 2 of Chapter 126 of the Acts of 1937 became a part of the Acts of 1925, as subsequently amended, and must be read in connection therewith. Thus, then, since part (c) of Section 2 of Chapter 126 of the Acts of 1937 has no penalty provision, the general penalty provision of the Acts of 1925, as amended by the Acts of 1927, would be applicable in the case of a violation such as you speak of in your letter. If, therefore, the State Highway Commission has designated, pursuant to its power and authority, certain highways as preferential and has also designated certain hazardous intersections as "stop intersections," and has established the requirement that all traffic approaching
these intersections shall come to a full stop before passing over, then a violation of such requirement would subject the violator, upon the proper evidentiary showing, to the general penalty provisions of the Acts of 1925 as amended.

Your letter asks about the right of an officer to arrest for failure to stop at a preferential road. As has been heretofore pointed out, such failure to stop would constitute a misdemeanor and the officer would have the right to make an arrest if such misdemeanor were committed within his view. Upon arrest and conviction, then, as said heretofore, the violator would be subject to the general penalty provisions providing for a fine of not less than One Dollar ($1.00) nor more than Five Hundred Dollars ($500), to which may be added imprisonment for a term not to exceed one (1) year.

ENGINEERS AND LAND SURVEYORS, STATE BOARD OF REGISTRATION: Engineers—Unqualified and unregistered persons may not entitle themselves “engineers.”

February 9, 1933.

Mr. L. T. Gootee,
Secretary, Indiana State Board of Registration,
Professional Engineers and Land Surveyors,
State Capitol,
Indianapolis, Indiana.

Dear Sir:

Receipt is acknowledged of your letter of recent date, as follows:

“The Indiana State Board of Registration for Professional Engineers and Land Surveyors, respectfully request an official legal opinion as to the interpretation of the provisions of Chapter 148, Act of the 79th General Assembly of Indiana, in connection with the following question.

“Is it a violation of the provisions of the above named Act for a person who is not a qualified registered professional engineer, under the provisions of said Act, to use in connection with his name or otherwise, the title