

MOTOR VEHICLES: LIGHTS--White lights to be used in front of an automobile and red lights to the rear; other lights prohibited.

March 25, 1935.

3-27



Hon. J. H. McNatt
Assistant Prosecuting Attorney
St. Louis County
Clayton, Missouri

Dear Mr. McNatt:

This is to acknowledge your letter as follows:

"The State Highway Patrol has been making a number of arrests in our County of bus and truck drivers who have other than white lights displayed on the front of the vehicle and other than red lights displayed at the rear.

We are wondering what our position should be in this matter under Sec. 7778 and under Rule 52 of the Missouri Bus and Truck Law, which sets out the requirements for motor vehicles, but the language of the Statute and the rule does not seem to limit to those particular requirements.

We would appreciate an expression of opinion from your office on this matter. In other words, if an operator has the required white head lights and the red rear light on his vehicle, can he be prosecuted for having other than a white light in front and other than a red light in the rear of such vehicle."

In *Schwartzman Service, Inc., v. Stahl et al.*, 60 F. (2d) 1034, the District Court, Western District of Missouri, Central Division, said (l. c. 1037):

"At the outset it must be acknowledged that the state has the power to regulate and control the movements of motor vehicles over its highways. This it may do in the interest of public convenience and safety and for the protection of the highways.

* * * * *

The highways belong to the state. It may make provisions appropriate for securing the safety and convenience of the public in the use of them."

In *Ex Parte Kneedler*, 243 Mo. 632, l. c. 641, the court said:

"Every person who operates or uses a motor vehicle must be regarded as exercising a privilege and not an unrestricted right."

Article 1, Chapter 41, R. S. Mo. 1929, relates to the regulating of motor vehicles. Section 7778 of said article and chapter pertains to lights used on motor vehicles and said statute regulates and restricts the use of lights on motor vehicles. Said section in part provides as follows:

"For the purpose of revealing its position and direction, a motor vehicle, while on the highway, whether in operation or at rest, during the period from one-half hour after sunset to one-half hour before sunrise, and at all times when fog or other atmospheric conditions render the operation of motor vehicles dangerous on the highway, shall carry lighted signal lamps as

herein required; * * * . Motor vehicles * * * shall display at least two white lights mounted at the front and directed forward, and one red light mounted at the back and directed to the rear. * * * * No vehicle shall display or project to the front or sides any other than white light, or such shades as are commonly known and recognized as white, and no vehicle shall display at the back, or project toward the rear, any other than a red light, excepting that on motor vehicles and trailers which are required to carry number plates on the rear; the rear lamp shall be constructed, mounted and adjusted as to project from its sides, top, bottom or front, sufficient white light upon such plate to make the number plainly visible from a distance of twenty-five (25) feet: Provided, however, nothing in this section shall be construed to prohibit the use of additional red rear lights carried for added safety or of such white lights of low intensity as may be required in the operation of mechanical rear signalling devices, but no motor vehicle shall have mounted at its back any lamp projecting towards the rear a light of sufficient intensity to conceal the number or to interfere with the vision of anyone following. * * * * All motor vehicles, * * * shall carry, in addition to or in lieu of the front signal lamps, two lighted head lamps, and motorcycles and motorticycles shall carry at least one lighted head lamp for the purpose of illuminating the road ahead when the vehicle is in motion;

* * * * *

Dirigible search lights, or lights commonly known as spot lights, shall not be used on highways within the limits of municipalities, except in emergencies or when headlights are inadequate owing to rain or fog,

and then only: Provided, the shaft of condensed light is directed downward below the level of the lamp, and at no time into the eyes of other persons, but such lights may be used at any time on public highways outside of the limits of municipalities: Provided, their light is directed as hereinbefore required. No search light, or spot light, shall be equipped with a bulb stronger than twenty-one (21) candle power; such search lights and spot lights shall be so constructed and mounted that their light and direction can be fully and easily controlled from the driver's seat while the vehicle is in motion."

Section 7778, supra, regulates the candle power of the head lamps with specific direction as to the placing of the lights on the vehicle and the distance such are required to illuminate the highway ahead of same.

The purpose and intention of the Legislature by regulating the lights on motor vehicles is easily understood, namely: (1) That a motor vehicle shall have at least two head lights that project a white ray a certain number of feet ahead of the vehicle and placed in such a position so as not to "blind" or interfere with the driver of an approaching vehicle, and also; (2) That the vehicle shall have at least one red rear lamp to warn an approaching motorist. Spot lights are restricted in their use and provision is made for additional rear red lights. However, said section specifically states,

"No vehicle shall display or project to the front or sides any other than white light, or such shades as are commonly known and recognized as white, and no vehicle shall display at the back, or project toward the rear, any other than a red light."

Penal statutes must be strictly construed. Such was the holding in the case of Northern Securities Company v. United States, 193 U. S. 197, 48 L. Ed. 679, wherein the court said, 1. c. 358 (U. S.):

"It is said that this statute contains criminal provisions and must therefore be strictly construed. The rule upon that subject is a very ancient and salutary one. It means only that we must not bring cases within the provisions of such a statute that are not clearly embraced by it, nor by narrow, technical or forced construction of words, exclude cases from it that are obviously within its provisions. What must be sought for always is the intention of the legislature, and the duty of the court is to give effect to that intention as disclosed by the words used."

Section 7786, R. S. Mo. 1929, Paragraph "(d)", provides:

"Any person who violates any of the other provisions of this article shall, upon conviction thereof, be punished by a fine of not less than five dollars (\$5.00) or more than five hundred dollars (\$500.00) or by imprisonment in the county jail for a term not exceeding two years, or by both such fine and imprisonment."

From the above, then, it is seen that there is a statute regulating lights on automobiles and penalty provided for violation of its provisions.

In your letter you state, among other things,

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March 25, 1935.

rear light on his vehicle, can he be prosecuted for having other than a white light in front and other than a red light in the rear of such vehicle."

In our opinion, our answer to your question will be in the negative, i. e., if a motor vehicle has lights other than prescribed in the statute such would be a violation of Section 7778, supra. However, an exception to the rule would be the case of trucks with plates on the side thereof, in which event a white light may be projected toward the rear in order to illuminate such plates. The intent of the Legislature being that white lights only should be used at the front of the motor vehicle and red lights used in the rear.

Yours very truly,

James L. HornBostel
Assistant Attorney-General.

APPROVED:

ROY McKITTRICK
Attorney-General.

JLH:EG