AUTOMOBILES:
DRIVERS LICENSES:
LICENSES:
MOTOR VEHICLE EQUIPMENT:
MOTOR VEHICLES:

A conviction for operating a motor vehicle without headlights or taillights or with no stop or brake lights or with defective or inadequate brakes is for a violation of a vehicle equipment provision and is excepted from the assessment of points under Section 302.302-1 (1).

OPINION NO. 441 (1965)
OPINION NO. 72 (1966)

March 17, 1966

FILED
72

Honorable Thomas A. David, Director
Department of Revenue
Jefferson Building
Jefferson City, Missouri

Dear Mr. David:

This is in answer to your request for an opinion of this office regarding the interpretation of subparagraph (1) of paragraph 1, Section 302.302, RSMo Supp., 1965, which request reads in part as follows:

> "Please advise us if the wording in subparagraph (1) 'Other than a violation of vehicle equipment provisions' should be construed to mean that subsequent to the amendment of the law points should not be entered on the record of a licensee for convictions of:
>
> a. Operating without head lights or without tail lights when lights are required.
>
> b. Operating with no stop or brake lights.
>
> c. Operating with defective, or inadequate, or no brakes."

The Section to which you refer, Section 302.302, RSMo Supp., 1965, so far as here pertinent, provides:

> "1. The director of revenue shall put into effect a point system for the suspension and revocation of chauffeurs' and operators' licenses. Points shall be assessed only after a conviction or forfeiture of collateral. The initial

point value is as follows:

> (1) Any moving violation of a state law or county or municipal ordinance not listed in this section other than a violation of vehicle equipment provisions. . . . . 2 points (except any violation of a municipal stop sign ordinance where no accident is involved, 1 point)"
> (Emphasis added)

The emphasized portion of this statute was added by the amendment in 1965.

Prior to this amendment two points were assessed for these violations under paragraph 1 (1) as they were considered moving violations. Your question is whether they are now excepted as a violation of vehicle equipment provisions.

Various traffic and equipment regulations are enumerated in Chapter 304, RSMo. Sections 304.012 to 304.260 are grouped under the heading "general provisions" and include certain traffic regulations and size and weight limitations for motor vehicles. Sections 304.270 to 304.480 grouped under the heading "light regulations" include the various regulations controlling vehicle lighting equipment. Included within this group are the requirements that automobiles shall be equipped with proper headlights, Sections 304.310 and 304.320 and taillights, Section 304.480. Sections 304.490 to 304.570 are grouped under the heading "equipment" and include various requirements as to safety glass and also Section 304.560 entitled "Other equipment of motor vehicles." Paragraph 3 of this last section requires all motor vehicles to be provided at all times with two sets of adequate brakes kept in good working order. Criminal sanctions are provided for violation of all of these provisions. We have been unable to find any state law proscribing the operation of a motor vehicle with no stop or brake lights and presume that any conviction for this offense is a violation of a local ordinance.

The offenses which you question other than operating with no stop or brake lights are all found in Chapter 304 and all relate to equipment regulations. By amending the statute as they did the legislature obviously intended to except violations which had

previously been assessed. Since the clause in question provides for an assessment for moving violations "Other than a violation of motor vehicle equipment provisions," a departmental construction which would cause an assessment for violation of some equipment provisions not others, would amount to an authorized discrimination.

The failure to have stop and brake lights would also seem to be an equipment violation. Even though there is no state statute requiring their use, a conviction for violation of a local ordinance should also be excepted from assessment as a moving violation.

Our conclusion that convictions of these various offenses are not assessable as moving violations does not render paragraph 1 (1) meaningless as there are many moving violations other than for faulty equipment which are not covered in the other subparagraphs of Section 302.302-1 for which two points may be assessed.

Your second question is being answered by another opinion which we will send you a copy of as soon as it has been prepared and approved.

CONCLUSION

For the reasons stated, it is the opinion of this office that a conviction for operating a motor vehicle without headlights or taillights or with no stop or brake lights or with defective or inadequate brakes is for a violation of a vehicle equipment provision and is excepted from the assessment of points under Section 302.302-1 (1).

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. John H. Denman.

Very truly yours,

NORMAN H. ANDERSON
Attorney General