ALAN WILSON
ATTORNEY GENERAL

June 18, 2013

The Honorable Lynne Benfield
Magistrate, York – Bethesda Township
Post Office Box 11549
Columbia, South Carolina 29211

Dear Judge Benfield,

You seek an opinion of this Office as to whether it is legal for a motor vehicle, other than a school bus or emergency vehicle, to have any colored lights other than red, white, or amber. By way of background, you state:

> This request is ... regarding the following statutes: 56-5-4700(D) Improper Lights (blue) and 56-5-4830 Improper Lights (flashing). A Deputy issued an individual a ticket for each section code. Both the State and defendant testified that the lights were not visible from the front, only from a side view. Also, the defendant stated that the lights did not flash, that the colors faded.
>
> In my opinion there should not be any colored (other than the proper red, white or amber) lights on a motor vehicle other than a school bus or emergency vehicle.

Law/Analysis

As a threshold matter, we note that "[t]his Office is not a fact-finding entity; investigations and determinations of fact are beyond the scope of an opinion of this Office and are better resolved by a court." Op. S.C. Att'y Gen., 2013 WL 2283093 (May 8, 2013). Therefore, this opinion is not an attempt to resolve the matter before the court or comment upon the merits of any particular case.

With that being said, the statutes referenced in your letter are part of the Uniform Act Regulating Traffic on Highways (the "UTA"), S.C. Code 56-5-10 et seq. The first statute you reference states, in its entirety:

> (A) Every authorized emergency vehicle shall, in addition to any other equipment and distinctive markings required by this chapter, be equipped with a siren, exhaust whistle, or bell capable of giving an audible signal.
>
> (B) Every school bus and every authorized emergency vehicle, in addition to any other equipment and distinctive markings required by this chapter, must be equipped with signal lamps mounted as high and as widely spaced laterally as

> practicable, which must be capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level, and these lights must have sufficient intensity to be visible at five hundred feet in normal sunlight. However, vehicles of a fire department or funeral home when equipped with a mounted, oscillating, rotating, or flashing red light, visible in all directions for a distance of five hundred feet in normal sunlight, are not required to have additional signal lamps.
>
> (C) All police vehicles when used as authorized emergency vehicles must be equipped with oscillating, rotating, or flashing blue lights. In addition to the blue lights, the police vehicle may, but need not be equipped with alternately flashing red lights as herein specified, and may, but need not be equipped with oscillating, rotating, or flashing red lights, white lights, or both, in combination with the required blue lights. The authorized emergency police vehicle lights described herein must be visible for a distance of five hundred feet in all directions in normal sunlight. **It shall be unlawful for any person to possess or display on any vehicle any blue light that is visible from outside the vehicle except one used primarily for law enforcement purposes.**
>
> (D) The alternately flashing lighting described in subsection (B) of this section shall not be used on any vehicle other than an authorized emergency vehicle. Provided, that a school bus may use the alternately flashing red lighting described in subsection (B), or red flashing lights in the rear and amber flashing lights in the front.
>
> (E) The use of the signal equipment described herein shall impose upon drivers of other vehicles the obligation to yield right-of-way and stop as prescribed in Sections 56-5-2360 and 56-5-2770.

§ 56-5-4700 (emphasis added).

The other section referenced provides:

> Any lighted lamp or illuminating device upon a motor vehicle, other than head lamps, spot lamps, auxiliary lamps, flashing turn signals, emergency vehicle warning lamps, and school bus warning lamps, which project a beam of light of an intensity greater than three hundred candlepower shall be so directed that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.
>
> **A person shall not drive, move, or park any vehicle or equipment upon a highway with a lamp or device on it displaying a red or blue light visible from directly in front of the center of it.** This section shall not apply to a vehicle upon which a red or blue light visible from the front is expressly authorized or required by this chapter.

> **Flashing lights are prohibited except on an authorized emergency vehicle, school bus, snow-removal equipment, or on any vehicle as a means of indicating a right or left turn or the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking, or passing.**

§ 56-5-4830 (emphasis added). Furthermore, § 56-5-4430 provides that nothing in Article 35 of Chapter 5 of the UTA, which encompasses § 56-5-4700 and § 56-5-4830, "shall be construed to prohibit the use of additional parts and accessories of any vehicle which are not inconsistent with the provisions of this article." § 56-5-4430.

In previous opinions addressing the legality of certain colored lights installed on vehicles, we have construed § 56-5-4430 as generally authorizing the use of lights which are not of a color prohibited by the provisions of Article 35, Chapter 5 of the UTA and are installed in a manner not inconsistent with those provisions. See Ops. S.C. Att'y Gen., 2006 WL 2593083 (Aug. 8, 2006); 2003 WL 21040137 (Feb. 13, 2003). In the 2003 opinion we answered the question of whether neon colored lights were prohibited by law where the provisions of Article 35 of Chapter 5 of the UTA generally only permit clear, amber, or red lights on motor vehicles not otherwise expressly authorized to utilize different colored lights. We concluded that neither § 56-5-4700 or § 56-5-4830, nor any other provision that we are aware of, prohibit the use of such lights which are not otherwise installed or used in a manner expressly prohibited by the UTA. Likewise, we concluded in the 2006 opinion that no provision in Article 35 of Chapter 5 of the UTA that we are aware of prohibits the use of colored neon or fluorescent lights that project from the undercarriage of a vehicle to the ground below. However, we cautioned that in any particular situation involving the use of neon, fluorescent, or other colored lights not expressly authorized for use on or in a civilian's motor vehicle, consideration should be given not only to § 56-5-4700 or § 56-5-4830, but also to any other provision in the UTA regulating the color, installation, or use of lights.

In light of the above, it is our opinion the UTA does not generally prohibit the use of colored lights on a civilian vehicle other than red, white, or amber. However, § 56-5-4700(C) expressly prohibits a person from possessing or displaying "any blue light" on a vehicle other than one used primarily for law enforcement purposes. S.C. Code § 56-5-4830 also prohibits a vehicle from "displaying a red or blue light visible from directly in front of the center of it" unless otherwise expressly authorized by the provisions of the UTA. Furthermore, § 56-5-170(B) states:

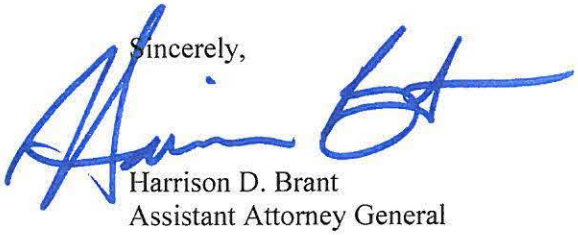
> (B) Only authorized emergency vehicles and private security patrol vehicles regulated by the State Law Enforcement Division are allowed use or display of any blue lights or red lights. This includes light bars and smaller lights such as dash, deck, or visor lights. To "display" means to be seen, whether activated or not.

See also § 56-5-4750 ("Any motor vehicle may be equipped with not more than one running-board courtesy lamp on each side thereof which shall emit a white or amber light without glare").

Thus, it is clear from the above quoted language of § 56-5-4700(C) that the UTA does expressly prohibit the use of any blue light on a motor vehicle, or the visible use of one inside a vehicle, unless the vehicle is used primarily for law enforcement purposes. However, the legality of the use of any other lights on or in a motor vehicle must be determined in accordance with the statutory sections referenced herein and various other provisions of Article 35, Chapter 5 of the UTA, and the facts and circumstances

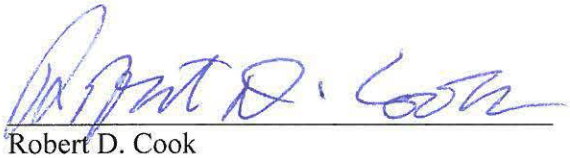
of each individual case. We note that police officers have broad discretion in carrying out their duties and enforcing the laws, including the decision of whether to make an arrest or charge someone with violating the law. See Ops. S.C. Att'y Gen., 2012 WL 4283913 (Sept. 12, 2012); 2012 WL 1774919 (May 2, 2012). As to the issue in the present case of whether the individual's lights were "flashing" in violation of § 56-5-4700 or § 56-5-4830, or any other provision of the UTA in light of testimony that the lights simply "faded," such a question requires a factual determination. As such, the question is beyond the scope of this opinion and is a matter for the court to decide.

Sincerely,



Harrison D. Brant
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General