

Opinion No. 96-360

December 19, 1996

The Honorable Bill Gwatney  
State Senator  
P. O. Box 156  
Jacksonville, AR 72076

Dear Senator Gwatney:

This is in response to your request for an opinion concerning the use of emergency lights on fire fighters' privately owned vehicles. You state that a North Pulaski Fire Department fire fighter was recently stopped by a state trooper and informed that volunteer fire fighters cannot use roof-mounted lights, based upon a 1995 amendment which added the following language to A.C.A. § 27-36-304(a):

Fire fighters shall be allowed to use portable dash-mounted red rotating or flashing emergency lights on their privately owned automobiles when responding to a fire or other emergency.

Acts 1995, No. 123, § 1, codified at A.C.A. § 27-36-304(a) (Supp. 1995).

This provision was apparently interpreted to preclude the use of roof-mounted lights. You have asked whether this is correct, or whether fire fighters may use either dash-mounted or roof-mounted lights on their privately owned vehicles.

It is my opinion that § 27-36-304(a), as amended by Act 123 of 1995, should be interpreted just as it reads, that is, fire fighters are "allowed to use portable dash-mounted red rotating or flashing emergency lights on their privately owned automobiles...." (Emphasis added). It seems clear from this language that portable dash-mounted lights are permitted but not mandated. And established rules of statutory construction require that a statute be given its plain meaning when the wording is clear and unambiguous. *Cash v. Arkansas Comm'n on Pollution Control & Ecology*, 300 Ark 317, 778 S.W.2d 606 (1989).

Even if § 27-36-304 is viewed as ambiguous, the legislative history reflects legislative intent to allow fire fighters to use either roof-mounted or dash-mounted emergency lights on their privately owned automobiles. Prior to 1995, subsection (a) of § 27-36-304 provided that:

(a) All state, county, city, and municipal or privately owned fire departments, funeral homes, or ambulance companies shall install, maintain, and exhibit red rotating or flashing emergency lights upon all fire department vehicles, automobiles used by fire fighters, and

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ambulances which are equipped with emergency lighting and operated....

A.C.A. § 27-36-304(a) (Repl. 1994) (emphasis added).

This office interpreted this language, together with A.C.A. § 27-49-219(d)(1)(B), as requiring that red rotating or flashing emergency lights be installed and exhibited upon vehicles owned and used by volunteer fire fighters. Op. Att’y Gen. 94-012 (copy enclosed).<sup>1</sup> It was thus concluded that dash-mounted lights would not be acceptable. *Id.* at 3.

The legislature has now clearly authorized the use of dash-mounted emergency lights, through Act 123 of 1995. Neither the language nor the history of § 27-36-304(a) suggests that the legislature intended to prohibit roof-mounted lights following this enactment.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Elisabeth A. Walker.

Sincerely,

WINSTON BRYANT  
Attorney General

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Enclosure

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<sup>1</sup> Section 27-49-219(d)(1) defines “[a]uthorized emergency vehicle” and includes, under subparagraph (B), “motor vehicles owned and used by volunteer fire fighters while engaged in official duties, ... all of which shall be equipped with red rotating or flashing emergency lights.”