

Use of flashing amber lights on vehicles

Number: INFORMAL

Date: July 31, 1998

The Honorable Mike Fasano
Representative, District 45
8217 Massachusetts Avenue
New Port Richey, Florida 34653-3111

Dear Representative Fasano:

You ask whether the provisions of section 90.5015, Florida Statutes, created by section 1, Chapter 98-48, Laws of Florida, are in conflict with the provisions of section 316.2397(3), Florida Statutes. According to your letter, a journalist applied for and was denied a permit to use a flashing amber light on his vehicle pursuant to section 316.2397(3), Florida Statutes. The journalist has questioned whether the definition of "public service corporation" in section 316.2397(3), Florida Statutes, is in conflict with the provisions of the recently passed section 90.5015, Florida Statutes.

Based upon the following discussion, I find no such conflict.

Section 316.2397(3), Florida Statutes, provides in pertinent part:

"Wreckers, mosquito control fog and spray vehicles, and emergency vehicles of governmental departments or public service corporations may show or display amber lights when in actual operation or when a hazard exists provided they are not used going to and from the scene of operation or hazard without specific authorization of a law enforcement officer or law enforcement agency. Further, escort vehicles will be permitted to show or display amber lights when in the actual process of escorting overdimensioned equipment, material, or buildings as authorized by law. Vehicles of private watch, guard, or patrol agencies licensed pursuant to chapter 493 may show or display amber lights while patrolling condominium, cooperative, and private residential and business communities by which employed and which traverse public streets or highways."

Section 316.2397(7), Florida Statutes, prohibits flashing lights on vehicles, "except as a means of indicating a right or left turn, to change lanes, or to indicate that the vehicle is law-fully stopped or disabled upon the highway or except that the lamps authorized in subsections (1), (2), (3), (4), and (9) and s. 316.235(5) are permitted to flash." [1]

In Attorney General Opinion 93-01, this office was asked to consider the above provisions. Recognizing that section 316.2397, Florida Statutes, specifies the vehicles which may display flashing amber lights, this office concluded that a private security company must fall within one of the allowed uses under section 316.2397, Florida Statute, before it may display flashing lights on its motor vehicles while patrolling a district. [2]

Section 90.5015, Florida Statutes, was created by the 1998 Legislature as part of the Florida Evidence Code. It establishes a limited privilege for professional journalists to refuse to be a witness or to disclose certain information in proceedings. The statute defines "professional journalist" and "news" for purpose of this evidentiary privilege. Nowhere, however, is there any reference to "public service corporations," nor is there any evidence that the statute was intended to affect provisions outside of the Florida Evidence Code.

Accordingly, I am of the opinion that there is no conflict between the provisions of sections 90.5015 and 316.2397, Florida Statutes, and that the application of section 316.2397(3), Florida Statutes, is not affected by the adoption of section 90.5015, Florida Statutes.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tgk

[1] Section 316.235(5), Fla. Stat., provides that a bus, as defined in s. 316.003(3), Fla. Stat., may be equipped with a deceleration lighting system consisting of amber lights which light and flash during deceleration, braking, or standing and idling of the bus.

[2] *Cf. Alsop v. Pierce*, 19 So. 2d 799, 805-806 (Fla. 1944), and *Thayer v. State*, 335 So. 2d 815, 817 (Fla. 1976) (legislative directive as to how a thing shall be done is, in effect, a prohibition against its being done in any other manner).