

**STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL**

July 3, 2019

Opinion No. 19-09

Flashing Lights on Motor Vehicles under Tenn. Code Ann. § 55-9-402

Question

Under Tenn. Code Ann. § 55-9-402, may a vehicle with emergency plates operated by an amateur radio operator have amber and white lights flashing all around the vehicle?

Opinion

No.

ANALYSIS

We assume that the “emergency plates” referred to in the question are issued pursuant to Tenn. Code Ann. § 55-4-202(c)(1), which allows issuance of emergency-category registration plates to, among other groups, Tennessee residents who hold a valid, FCC-issued amateur radio license.

Tennessee Code Annotated § 55-9-402 regulates lighting for motor vehicles. It prohibits “nonemergency vehicles” from “operat[ing] or install[ing] emergency flashing light systems, such as strobe, wig-wag, or other flashing lights within the headlight assembly or grill area of the vehicle.” Tenn. Code Ann. § 55-9-402(a)(1). A “nonemergency vehicle” is also prohibited from “operat[ing] or install[ing] emergency flashing light systems . . . in tail light lamp, stoplight area, or factory installed emergency flasher and backup light area” except for “a brake light system in which the brake lamp pulses rapidly for no more than five (5) seconds” Tenn. Code Ann. § 55-9-402(b)(1). Tennessee Code Annotated § 55-9-402 also provides various exceptions to the prohibition on flashing lights for nonemergency vehicles—for example, for school buses, utility vehicles, and mail trucks. But there is no exception that appears to apply to a privately-owned vehicle with “emergency plates” issued on the basis that the owner holds an amateur radio license.

A privately owned and operated vehicle—even one with “emergency” plates issued on the basis that the owner holds an amateur radio license—is a “nonemergency” vehicle for purposes of § 55-9-402. “Authorized emergency vehicles” are defined to include official vehicles owned or operated by state or local governmental entities and certain governmentally chartered agencies to provide emergency services, such as police and TBI vehicles, fire department vehicles, ambulances, volunteer firefighter vehicles, and rescue squad vehicles. Tenn. Code Ann. § 55-8-101(3). The definition of “emergency vehicles” does not include privately owned or operated vehicles. And whether a vehicle comes within the definition of an “emergency” vehicle is not

dependent on, or related to, its registration plates; the definition makes no reference to registration plates.

Since a privately-owned vehicle is not generally within the statutory definition of “emergency vehicle,” a privately owned or operated vehicle that is not otherwise excepted from the prohibitions of Tenn. Code Ann. § 55-9-402(a)(1) and (b)(1) would be a “nonemergency vehicle” and would, therefore, be prohibited under the express language of § 55-9-402(a)(1) and (b)(1) from having flashing lights of any color in the front or back. Thus, such a vehicle may not “have amber and white lights flashing all around.”

HERBERT H. SLATERY III
Attorney General and Reporter

ANDRÉE SOPHIA BLUMSTEIN
Solicitor General

Requested by:

Chairman Jason Zachary
State Representative
616 Cordell Hull Building
Nashville, Tennessee 37243