

The answer to your first question makes an answer to your second question unnecessary.

FRANK J. KELLEY,
Attorney General.

73 0425.1 —————

MOTOR VEHICLES: Permissible use of flashing warning lights by motorcycles.

Where warning lights are to be installed on motorcycles, the Michigan Vehicle Code requires the use of two such lights mounted at the same level and as widely spaced laterally as possible; a single light cannot meet this requirement.

Opinion No. 4764

April 25, 1973.

Honorable Robert VanderLaan
State Senator
The Capitol
Lansing, Michigan 48901

You have requested upon behalf of a constituent issuance of my opinion upon the question:

“Is it a violation of state law for a motorcycle to be equipped and the operator use a ‘warning light’ which would flash once per second, the duration of each flash lasting about 1/10 of a second and which would be visible to traffic in front of the motorcycle?”

The pertinent statutory provisions are contained in 1949 PA 300, the Michigan vehicle code, MCLA 257.1 *et seq*; MSA 9.1801 *et seq*. A motorcycle is one type of a motor vehicle and, therefore, is included within the meaning of the latter term as used in the code. Sections 31 and 33. Likewise, a motorcycle is included within the meaning of the term “vehicle” as used therein. Section 79. With respect to the required head lamp with which a motorcycle is required to be equipped, § 685 differentiates and specifies in subsection (b):

“Every motorcycle and every motor driven cycle shall be equipped with at least 1 and not more than 2 head lamps which shall comply with the requirements and limitations of this chapter.”

The sections following § 685 contain provisions for certain auxiliary driving lamps with which a motor vehicle is either authorized or required to be equipped. In II OAG 1955-56, No 2845, p 682, it was held quoting the syllabus:

“Flasher lights may not be used on any motor vehicle driven or moved on a public highway of this state except as permitted by law.”

In OAG 1961-62, No 3627, p 144, it was held, *inter alia*, quoting from the syllabus:

“The use of red flashing turn indicators, either singly or in pairs, on

disabled vehicles in order to give warning of a traffic hazard, is prohibited except on those vehicles specifically permitted under the law."

The latter opinion was issued on July 25, 1961. 1962 PA 166, approved May 14, 1962, and effective March 28, 1963, amended certain sections and added two sections to the Michigan vehicle code. Among the sections added was § 698a, MCLA 257.698a; MSA 9.2398(1), reading:

"Any vehicle may be equipped with lamps which may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing, and when so equipped may display such warning in addition to any other warning signals required by this act. The lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable, and shall display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. These warning lights shall be visible from a distance of not less than 500 feet under normal atmospheric conditions at night."

The provisions thereof are not substantially different from those of § 12-220(c) of the Uniform Vehicle Code. As stated in § 698a, the warning lights therein authorized are for the purpose of

"warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing."

Section 698a further specifies:

"The lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable, and shall display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red."

Obviously, compliance could only be had with such requirements by having such warning lights that are as widely spaced laterally as practicable. It follows, therefore, that § 698a does not authorize the operation upon the public highways of a motorcycle equipped with a single flashing warning light such as discribed. Instead, absent further amendment for that purpose, the operation upon the public highways of a motorcycle with such single flashing light is prohibited by the Michigan vehicle code, but two such lights shall be used.

FRANK J. KELLEY,
Attorney General.