

Opinion No. 2011-115

October 26, 2011

The Honorable Bruce Holland
State Senator
Post Office Box 2387
Greenwood, Arkansas 72936

Dear Senator Holland:

You have requested my opinion on the law governing the use of emergency lights on privately-owned vehicles of volunteer firefighters. You report that it is your understanding a county official is under the belief only dash-mounted lights are allowed in these vehicles. You seek clarification of the law in this regard, and you ask specifically:

1. Does Arkansas Code § 27-36-304 only allow dash-mounted lights on privately-owned volunteer firefighter vehicles?
2. What types of lights are allowed in and on vehicles owned by volunteer firefighters?

RESPONSE

The answer to your first question is “no,” in my opinion. It is my opinion in response to your second question that state law generally authorizes either dash-mounted or roof-mounted red rotating or flashing emergency lights on volunteer firefighters’ private vehicles.

Question 1 - Does Arkansas Code § 27-36-304 only allow dash-mounted lights on privately-owned volunteer firefighter vehicles?

Please note that I have enclosed a copy of Attorney General Opinion 96-360, which discusses the history of A.C.A. § 27-36-304 and concludes—with regard to firefighters using either dash-mounted or roof-mounted lights on their privately-

owned vehicles—that “portable dash-mounted lights are permitted but not mandated.”¹

According to my review, the law has not changed materially since the rendering of this opinion. Section 27-36-304 provides in relevant part:

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 firefighters, and ambulances which are equipped with emergency lighting and operated within Arkansas. *Firefighters 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.*²

As my predecessor explained, the emphasized language was added to A.C.A. § 27-36-304 by Act 123 of 1995. Prior to this amendment, A.C.A. § 27-36-304 only mentioned installing and exhibiting emergency lights upon firefighters’ vehicles. In Attorney General Opinion 94-012, which is also enclosed for your convenience, my predecessor discussed the requirement that lights be exhibited and concluded that dash-mounted lights would not be acceptable. With the passage of Act 123 of 1995, the use of dash-mounted emergency lights was authorized. It was therefore concluded in Op. 96-360 that the legislature authorized, but did not require, the use of dash-mounted emergency lights on firefighters’ privately-owned vehicles when it enacted Act 123 of 1995.

My research indicates that the law has not changed since these opinions were issued. In response to your first question, therefore, it seems that A.C.A. § 27-36-304 does not limit firefighters to only using dash-mounted lights on their private vehicles.

Question 2 - What types of lights are allowed in and on vehicles owned by volunteer firefighters?

¹ Op. Att’y Gen. 96-360 at 1-2.

² A.C.A. § 27-36-304(a) (Supp. 2011) (emphasis added).

The Honorable Bruce Holland
State Senator
Opinion No. 2011-115
Page 3

See response above. According to my review, state law generally authorizes either dash-mounted or roof-mounted red rotating or flashing emergency lights for use on the private vehicles of volunteer firefighters.³

Deputy Attorney General Elisabeth A. Walker prepared the foregoing opinion, which I hereby approve.

Sincerely,

DUSTIN MCDANIEL
Attorney General

DM/EAW:cyh

Enclosures

³ I should note that this opinion addresses general state law on the question and that individual firefighters would be well-advised to consult any local fire department policies when addressing this question at the local level. Additionally, you have not asked nor does this opinion address any questions or concerns regarding the actual use of emergency lights by volunteer firefighters.