

1978 WL 34600 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 24, 1978

**\*1 RE: Opinion Request**

Colonel W. J. Seaborn  
Director of Law Enforcement Public Transportation  
P. O. Box 191  
Columbia, S. C. 29202

Dear Colonel Seaborn:

I am in receipt of your letter indicating an apparent conflict between state regulations regarding the placement of clearance and identification lamps on the rear of trailers and semi trailers and federal regulations of the same. You have asked us which of these conflicting regulations control. We are of the opinion that in this instance the federal regulations control.

[Section 56-5-4600 of the South Carolina Code of Laws \(1976\)](#), provides that, '(c)learance lamps shall be mounted on the permanent structure of the vehicle in such a matter as to indicate its extreme width and as near the top thereof as practical.' In other words state law requires that these lights be placed in the upper most corners of the vehicle.

Sections 393.14, 393.20 and 393.22 of the Federal Motor Carrier Safety Regulations provides that a cluster of three lights at the top center of such trailers (identification lights) are sufficient to establish the extreme height of the trailer and that two tail lights, one at each side in the lower corners of the vehicle, can be used to establish the extreme width of the trailer (clearance lights). Section 393.22(b)(3) goes on to add that clearance lamps may not be combined with identification lamps. Section 393.20 specifically provides that when identification lights are used at the top center of the trailer, the height of clearance lamps is optional. Therefore it appears that federal regulations are more flexible than the South Carolina statute and conflict with the South Carolina statute in the aspect described above.

Generally, in the absence of national legislation speaking to specific elements of interstate commerce, a state may prescribe uniform regulations adapted to promote safety upon its highways. [South Carolina State Highway Department vs. Barnwell Brothers, Inc., 303 U.S. 177, 189 \(1938\)](#). However, as here, federal legislation directed at any such element of interstate commerce preempts state law which is said to be in conflict with it. Congress recognized this preemption when passing [15 USCA 1392](#), delegating the above rules. [Section 1392\(d\)](#) reads in part:

Whenever a Federal motor vehicle safety standard established under this subchapter is in effect, no State or political subdivision of a State shall have any authority either to establish or to continue in effect, with respect to any motor, vehicle or item of motor vehicle equipment any safety standard applicable to the same aspect of performance of such vehicle or item of equipment which is not identical to the Federal standard . . .

Thus, by terms of the statute, the federal regulation would control here.

Therefore, since federal law in the area of interstate commerce preempts any state law in conflict with it, and since the statute so requires, it is clear here that the federal regulation providing for placement of clearance lamps or identification lamps on trailers preempts and controls over our state law. We suggest then that your agency refrain from enforcing the state law regulating placement of such lamps until such time as the state law is brought into conformity with the federal

law. Should you have any questions concerning this opinion or should this opinion give rise to any further questions, please don't hesitate to contact me.

Sincerely,

\*2 Scott Elliott  
Staff Attorney

1978 WL 34600 (S.C.A.G.)

---

End of Document

© 2017 Thomson Reuters. No claim to original U.S. Government Works.