

MOTOR VEHICLES:

Operator's duty, not manufacturer's, to see that motor vehicle is equipped with proper lights under Sec. 8386q, Mo. R. S. Ann.

April 29, 1948

Colonel Hugh H. Waggoner
Superintendent
Missouri State Highway Patrol
Jefferson City, Missouri



Dear Sir:

We have received your request for an opinion of this department, which request is as follows:

"On November 4, 1947, Mr. William C. Cockrill, Assistant Attorney General wrote an opinion to this department relative to the red warning lighting and reflector requirements on commercial motor vehicles. It was Mr. Cockrill's opinion that every new commercial motor vehicle registered in the state of Missouri, when operated on the highway, is required to exhibit one rear lamp and two approved red reflectors in the rear as specified in Section 8386q, Revised Statutes Annotated.

"We would like to inquire further as to whether or not the manufacturer must meet these requirements or is it the responsibility of the person who operates the vehicle to see that the two red reflectors are mounted on the rear."

Section 8386q, Mo. R. S. Ann., reads as follows:

"Every motor vehicle and every motor drawn vehicle shall be equipped with at least one rear lamp, not less than fifteen inches or more than forty eight inches above the ground upon which the vehicle stands, which when lighted will exhibit a red light plainly visible from a distance of five hundred feet to the rear; provided, however, that such rear

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lamp may be mounted higher than forty eight inches on any vehicle carrying inflammable liquids as a cargo. Either such rear lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration marker and render it clearly legible from a distance of fifty feet to the rear. When the rear registration marker is illuminated by an electric lamp other than the required rear lamp, said two lamps shall be turned on or off only by the same control switch at all times. Every new passenger car and motor cycle registered in this State after January 1, 1942, when operated on a highway shall also carry at the rear, either as part of the rear lamp or separately, at least one approved red reflector, which shall be of such size and characteristics and so maintained as to be visible during the times when lighted lamps are required from all distances within three hundred feet to fifty feet from such vehicle when directly in front of a motor vehicle displaying lawful undimmed headlamps. Every new commercial motor vehicle, motor-drawn vehicle and omnibus with a capacity of more than six passengers registered in this State after January 1, 1942, when operated on a highway shall also carry at the rear at least two approved red reflectors, at least one at each side, so designed, mounted on the vehicle and maintained as to be visible during the times when lighted lamps are required from all distances within five hundred to fifty feet from such vehicle when directly in front of a motor vehicle displaying lawful undimmed headlamps. Every such reflector shall meet the requirements of this article and shall be mounted upon the vehicle at a height not to exceed sixty inches nor less than twenty-four inches above the surface upon which the vehicle stands."

This section is a portion of an act adopted by the 61st General Assembly, found in Laws Mo. 1941, p. 438.

Section 8386a of the act reads as follows:

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"Any person violating any of the provisions of this act shall, upon conviction thereof, be deemed guilty of a misdemeanor. The term 'person' as used in this act shall mean and include any individual, association, joint stock company, co-partnership or corporation."

This is the only penalty provision in the act.

The regulation contained in Sec. 8386q is directed at the operation of a motor vehicle on the highways of this state, and the only penalty which could be invoked would be for the operation of a vehicle on the highways without the lights and reflectors specified in this section.

Inasmuch as there is no prohibition of the sale of a motor vehicle in this state, unless equipped in the manner set out in Sec. 8286q, no penalty could be imposed for the sale of a vehicle not so equipped. In this regard, the act differs from that requiring safety glass in motor vehicles, inasmuch as that act, Sec. 8390 Mo. R.S. Ann., prohibits the sale as well as the operation of a motor vehicle not properly equipped with safety glass.

CONCLUSION

It is the opinion of this department that the operator of a motor vehicle is required to see that the lighting equipment on said vehicle complies with requirements of Sec. 8386q, Mo. R.S. Ann., in that it is not the duty of the manufacturer to see that motor vehicles sold in this state are so equipped.

Respectfully submitted,

ROBERT R. WELBORN
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General