

**OPINION**  
**66-181**

February 17, 1966 (OPINION)

Colonel Ralph M. Wood

Superintendent

Highway Patrol

RE: Motor Vehicles - Equipment - Flashing Lights

This is in reply to your request for an official interpretation and opinion as to whether subsection 3 of section 39-21-26 of the North Dakota Century Code permits the use of a flashing amber light on a stalled motor vehicle or a slow moving farm vehicle, which is not classified as an emergency vehicle. You enclose a sample of such a light to aid in making this determination.

The light enclosed is denominated on the package as an "Ash Flash Revolving Safety Beacon." Its basic construction involves an electrically revolving electric bulb and reflector enclosed within a plastic, transparent, amber housing. In operation as to any given spot within the circle produced by the travel of the beam of light, it would produce the effect of a "flashing" amber light.

Section 39-21-26, subsection 3 of the 1965 Supplement to the North Dakota Century Code provides:

"Flashing lights are prohibited except on an authorized emergency vehicle, school bus, snow removal equipment or on any vehicle as a means of indicating a right or left turn, or the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking or passing."

In our opinion the device forwarded because of the effect produced does not constitute a "flashing light" within the meaning of said section 39-21-26. To the extent of a stalled motor vehicle or a slow moving farm vehicle, not classified as an emergency vehicle, constitutes "a vehicular traffic hazard requiring unusual care in approaching, overtaking or passing" use of such a device would be permissible. It is further our opinion that in many instances a stalled motor vehicle or a slow moving farm vehicle, not classified as an emergency vehicle, constitutes a "vehicular traffic hazard requiring unusual care in approaching, overtaking or passing" though every case would, of course, have to be considered on its merits on the basis of all surrounding facts and circumstances. Use of such a lamp, of course, would not excuse compliance with other statutory provisions in regard to lighting of such stalled motor vehicles or slow moving farm vehicles.

We are enclosing herewith a copy of State Highway Department Standards for Lights, Order No. 1, which may also be of assistance in determining proper usage of this device.

HELGI JOHANNESON

Attorney General