



National Highway Traffic Safety Administration
Our Mission: Save lives, prevent injuries, reduce vehicle-related crashes

Mr. Walter T. Jakobowski
President
Signal Dynamics Corporation
PO Box 350441
Ft. Lauderdale, FL 33335

Dear Mr. Jakobowski:

This is in reply to your letter of July 28, 1997 asking for an interpretation regarding the preemptive effect of Federal Motor Vehicle Safety Standard No.108.

Your company manufactures motorcycle headlamp modulators "that comply with standard No. 108." You report receiving comments that certain States do not allow use of this equipment. You ask for "an interpretation and a copy of the statutes that provide for Federal Law pre-empting any state laws that would disallow use of said Headlight Modulator."

Section 30103 (b) of Title 49, United States Code, provides in pertinent part that:

b PREEMPTION - (1) When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter.

Paragraph s7.9.4 Motorcycle headlamp modulation (formerly s5.6) of Standard No. 108 specifies that a headlamp on a motorcycle may be wired to modulate, provided that it does so in accordance with the requirements prescribed by that paragraph. Under 49 U.S.C. 30103 (b) (1), a state may have its own standard which allows a motorcycle headlamp to be wired to modulate in the same manner as prescribed under s7.9.4. However, since the Federal standard specifically allows a modulation of motorcycle headlamps, a State cannot have a standard prohibiting it. For your information, we are not aware of any State that forbids modulation of motorcycle headlamps.

Taylor Vinson provided you with a copy of 49 U.S.C. 30103 (b) on your visit to our Office on July 28. If you have further questions, you may reach him at 202-366-3820.

Sincerely,

John Womack
Acting Chief Counsel