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**REPORT TO THE
MINNESOTA LEGISLATURE
ON
OPERATION OF VEHICLES AND WATERCRAFT
WITHOUT LIGHTS**

Submitted December 31, 1990



**MINNESOTA
POST**
Board of Peace Officer
Standards and Training

Pursuant to 1990 Laws, ch 550,
Sec 9, subd 2

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Operation of Vehicles and Watercraft without Lights

Background on POST Standards

The need for the operation of law enforcement vehicles without activated head and tail lamps is quite obvious to most law enforcement practitioners. Certain police operations require such action so as not to compromise the covert nature of the operation. Peace officers who approach some potentially dangerous situations in squad cars routinely extinguish all lighting just prior to arrival as an officer safety precaution. Law enforcement vehicles are sometimes operated without lights in order to successfully apprehend criminals who might otherwise flee, given the advance warning afforded by the approach of a vehicle displaying head lights. The particular situations in which peace officers may find it necessary to operate law enforcement vehicles without activated head and tail lights in the course of investigating suspected criminal activity are diverse and varied.

Needless to say, this practice has been in use since motor vehicles became an active part of law enforcement many years ago. However, there was no statutory authority for peace officers to operate law enforcement vehicles without head lights or tail lights. Peace officers and law enforcement agents who operated vehicles under these circumstances could have been subjecting themselves to unnecessary liability.

In an effort to correct this situation, the 1990 Legislature passed 1990 Minnesota Laws, Chapter 555 sec. 9, codified as Minnesota Stat. § 169.541. That section provides:

Lighting Exemptions; Law Enforcement Vehicles; Standards.

Subdivision 1. EXEMPTION. Sections 84.87, 84.928, 169.48 to 169.65, and 361.15, relating to lighting of vehicles and watercraft, do not apply to a licensed peace officer, as defined in section 626.84, subdivision 1, paragraph (c), while operating a motor vehicle or watercraft owned, leased, or otherwise the property of the state or a political subdivision, in the performance of the officer's law enforcement duties if the officer's conduct is reasonable and is consistent with the standards adopted under subdivision 2, and if the officer reasonably believes that operating the vehicle without lights is necessary under the circumstances to investigate a criminal violation or suspected criminal violation of state laws, rules or orders or local laws, ordinances, or regulations.

Subd. 2. POST BOARD STANDARDS. The peace officers standards and training board shall adopt standards governing situations in which licensed peace officers as defined in section 626.84, subdivision 1, paragraph (c), may operate a vehicle or watercraft without lights as provided in subdivision 1. The board shall report to the legislature on the standards by January 1, 1991.

Therefore, according to this law, peace officers may operate a motor vehicle, snowmobile, all-terrain vehicle or boat without head and tail lights only when:

1. The peace officer who seeks to operate a vehicle under the exemption provided by 169.541 must be a peace officer as defined in Minn. Stat. § 626.84, Subd. 1(c). Comment: This provision excludes part-time peace officers or reserve officers from exemption.

2. The vehicle operated must be owned, leased or otherwise the property of the state or a political subdivision. Comment: A squad car or boat which is owned by an officer cannot be operated with the exemption provided under this law.

3. The vehicle must be operated "in the performance of the officer's law enforcement duties". Comment: This raises questions as to on-duty vs. off-duty, scope and course of employment, and jurisdiction.

4. The officer's conduct must be reasonable. Comment: The issue of what is or is not reasonable is a matter for judicial determination on a case-by-case basis. However, a general rule in determining reasonableness is whether or not a reasonable officer, confronted with similar circumstances or conditions, would have acted in a like manner.

5. The officer's conduct is consistent with the standards adopted by the POST Board. Comment: The standards will be addressed later. However, it is important to note that if an agency or officer chooses not to act consistently with the POST standards for operation of vehicles without activated lights, this condition will not have been met and no exemption will be permitted according to the language of the statute.

6. The operation of the vehicle without activated lights must be necessary to investigate a criminal violation or suspected criminal violation of state laws, rules or orders or local laws, ordinances or regulations. Comment: In other words, in POST's opinion, officers must have an

articulable reason for operating vehicles without activated lights that relates to some suspected criminal violation of law. It would be impermissible, under this statute, to cruise without activated lights while performing routine patrol.

Development of Standards

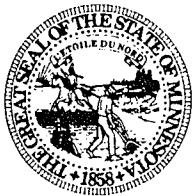
Minnesota Stat. § 169.541, Subd. 2, applies to the POST Board, and provides that the POST Board shall adopt standards governing situations in which peace officers may operate vehicles without lights, and directs POST to report to the Legislature on these standards by January 1, 1991.

By virtue of subdivision 2 of this statute, POST has been mandated to develop standards for operation of law enforcement vehicles without head or tail lamps. On other occasions the legislature has required POST to develop standards for law enforcement agencies. For example, the POST Board was directed by the Legislature to develop administrative rules governing the written procedures for the investigation and resolution of allegations of police misconduct and to develop administrative rules with respect to the minimum elements for police pursuit by peace officers.

In the above situations, POST recognized the variety and diversity of the state's 544 law enforcement agencies and acknowledged that local agencies are in the best position to implement any specific written procedures; thus, the POST Board struck a balance between the requirements of the law and the needs and concerns of the law enforcement agencies.

Therefore, the POST Board, as in the previous situations, has identified, through extensive research and input from the law enforcement community and the legal representatives of political subdivisions, the minimum standards that peace officers must meet in operating law enforcement vehicles without lights is outlined below:

These standards were adopted by the POST Board on October 18, 1990. Copies of these have been mailed to each law enforcement agency. (Copies of these standards are on the next page.) Articles on this topic have or will appear in the major law enforcement journals.



Minnesota Board of Peace Officer Standards and Training

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In the Matter of the Adoption of
Standards of the Board of Peace
Officer Standards and Training
Governing the Lighting Exemption for
Law Enforcement Vehicles and Watercraft.

NOTICE OF ADOPTION OF STANDARDS

NOTICE is hereby given that on October 18, 1990, the Board of Peace Officer Standards and Training (POST) approved and adopted the above-entitled standards as required by 1990 Minn. Laws, Chapter 555 sec. 9. These standards are effective October 18, 1990.

I. Definitions: For the purpose of these standards the following definitions apply:

"Operating without lights". Operating without lights means a peace officer operating a vehicle or watercraft without lights as an exception to Minn. Stat. § 84.87, 84.928, 169.48 to 169.65 and 361.15. This definition does not include a parked vehicle.

"Agency". Agency means a local or state law enforcement agency employing peace officers.

"Chief Law Enforcement Officer". Chief law enforcement officer means the highest ranking peace officer within an agency.

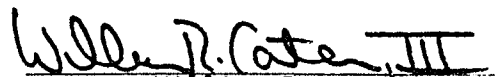
"Law enforcement Agency". Law enforcement agency has the meaning given it in Minn. Stat. § 626.84, subd. 1 (h).

"Peace Officer". Peace officer has the meaning given it in Minn. Stat. § 626.84, subd. 1(c).

II. A peace officer may not operate without lights:

- A. On inter-state highways.
- B. At speeds greater than what is reasonable and prudent under existing weather, road, and traffic conditions.
- C. In situations where the peace officer is an active participant in pursuing a motor vehicle being operated in violation of Minn. Stat. § 609.487.
- D. Contrary to the elements listed in Minn. Stat. § 169.541.
- E. Contrary to any written policies or procedures established by the chief law enforcement officer of the agency which employs the peace officer.

III. If a chief law enforcement officer adopts written policies and procedures under II (E), these policies must minimally address and clarify a peace officer's responsibilities to operate without lights, and include an effective date for the policies or procedures. The chief law enforcement officer shall distribute a copy of these procedures to all peace officers within the agency and shall make copies available to the public upon written request.


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