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BY EMAIL

Lori Wilson, Chair, Committee on Transportation
California Assembly
Farra.Bracht@asm.ca.gov

Re: Fraud, Waste, and Abuse – Illegal Auxiliary LED Flashing Lights for Vehicles

Dear Assemblymember Wilson,

California Vehicle Code § 25250 states, “Flashing lights are prohibited on vehicles except as otherwise permitted.”

In my opinion, the California Legislature has made abundantly clear that auxiliary flashing lights on vehicles can pose health, safety, or civil rights issues, and thus only when flashing lights have been thoroughly vetted and performance standards established, could flashing lights be “otherwise permitted”.

The California Legislature has granted the California Highway Patrol (“CHP”) the authority and the responsibility of publishing regulations for vehicle flashing lights in Title 13, Division 2 of the California Code of Regulations. The CHP has published various regulations for vehicle lighting equipment in Chapter 2.

What the CHP has not done is publish any regulations for lighting equipment that uses Light Emitting Diode (“LED”) technology. Cal. Code Regs. Title 13 Section 817 describes the photometric requirements for lights that turn on and off by controlling the electrical current, rotating lights, and oscillating lights. Absent is any mention of lights that turn on and off by controlling the voltage, such as LED flashing lights. In addition, Section 817 only describes minimum luminous intensity (candela) for these flashing lights, whereas the correct metric is called “luminance” and is measured in candela per square meter or nit. Current LED flashing light technology far exceeds comfort, tolerance, and safety thresholds for humans, and thus, if LED flashing lights are to be allowed on California vehicles, the CHP must set maximum limits on luminance.

The current regulatory situation is that auxiliary LED flashing lights have not been “otherwise permitted” by the CHP, and thus their use is illegal due to the California Legislature’s statute Cal. Veh. Code § 25250 which states, “Flashing lights are prohibited on vehicles except as otherwise permitted.” However, despite auxiliary LED flashing lights being illegal, the CHP is not complying with Cal. Veh. Code § 2400(b) which states, “The commissioner shall enforce all laws regulating the operation of vehicles and the use of the highways.” Despite numerous requests from the Soft Lights Foundation, the CHP has

declined to state why the CHP unlawfully chooses not to enforce the prohibition of auxiliary LED flashing lights.

Another state agency, the California Department of Transportation (“Caltrans”), uses auxiliary LED flashing lights on Caltrans vehicles, despite knowing that they are illegal and dangerous.

In summary, two state agencies, the CHP and Caltrans, which are overseen by the California Legislature, are acting lawlessly on this issue of auxiliary LED flashing lights on vehicles. Therefore, the Soft Lights Foundation requests an investigation by the California State Assembly and the Committee on Transportation.

California Government Code § 53087.6(f)(2) states, “For purposes of this section, “fraud, waste, or abuse” means any activity by a local agency or employee that is undertaken in the performance of the employee's official duties, including activities deemed to be outside the scope of his or her employment, that is in violation of any local, state, or federal law or regulation relating to corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, is economically wasteful, or involves gross misconduct.

Cal. Veh. Code § 24005 states, “It is unlawful for any person to sell, offer for sale, lease, install, or replace, either for himself or as the agent or employee of another, or through such agent or employee, any glass, lighting equipment, signal devices, brakes, vacuum or pressure hose, muffler, exhaust, or any kind of equipment whatsoever for use, or with knowledge that any such equipment is intended for eventual use, in any vehicle, that is not in conformity with this code or regulations made thereunder.”

Cal. Veh. Code § 25250 states, “Flashing lights are prohibited on vehicles except as otherwise permitted.” Cal. Code Regs. Title 13 Section 817 “otherwise permits” flashing lights that alternate on and off by controlling the current, rotating lights, and oscillating lights. Flashing lights that alternate on and off by controlling the voltage have not been “otherwise permitted”. Flashing Lights that use Light Emitting Diodes (“LEDs”) are controlled by voltage, have never been “otherwise permitted”, and thus their use on vehicles in California is illegal.

Despite these restrictions on vehicle flashing lights, city, county, and state agencies are committing fraud, waste, and abuse by purchasing, installing, and operating illegal auxiliary LED flashing lights on government vehicles. To address this issue, the Soft Lights Foundation is taking the following steps:

1. The Soft Lights Foundation is submitting requests to county civil grand juries and requesting an investigation into the fraud, waste, and abuse of taxpayer funds related to illegal auxiliary LED flashing lights on government vehicles. For example, the Soft Lights Foundation has received confirmation from the San Francisco County Grand Jury that our request to open an investigation into illegal LED flashing lights was received.
2. The Soft Lights Foundation is submitting requests for an investigation by city officials into the fraud, waste, and abuse of taxpayer funds. For example, the city of San Diego’s fraud investigator has opened case number 707680039558.
3. Mark Baker, President of the Soft Lights Foundation, has filed a lawsuit against the CHP for failing to enforce the prohibition of auxiliary LED flashing lights on vehicles, case number

25WM000119, Sacramento Superior Court, and a lawsuit against Caltrans for illegally installing and operating auxiliary LED flashing lights on Caltrans vehicles, case number 25WM000122, Sacramento Superior Court. It is likely that I will file similar lawsuits against cities for illegally installing auxiliary LED flashing lights and against manufacturers for illegally selling auxiliary LED flashing lights.

4. The Soft Lights Foundation has submitted requests for investigation to the California Transportation Commission, California Office of Traffic Safety, CHP Office of Inspector General, Caltrans Independent Office of Audits and Investigations, and California Attorney General.

Even with such significant efforts, we still have not made any progress protecting the health, safety, and civil rights of the public from the harms, illegal operation, and the fraud, waste, and abuse associated with auxiliary LED flashing lights on vehicles. The CHP and Caltrans deny that they are doing anything wrong, but in acts of bad faith, refuse to address the issues. It is my opinion that the CHP and Caltrans are lawless government agencies that require a purge of all agency officials who have failed to uphold the law and the will of the publicly elected officials in the California Legislature.

The Soft Lights Foundation respectfully requests that the California State Assembly Committee on Transportation open a thorough and transparent investigation into this matter.

Sincerely,

/s/ Mark Baker

President

Soft Lights Foundation

mbaker@softlights.org

cc: Assemblymember Cecilia Aguiar-Curry (eliana.pimentel@asm.ca.gov)