Use of blinking orange light on bicycle

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Subject:
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UNIFORM TRAFFIC CONTROL LAW--USE OF BLINKING ORANGE LIGHT ON BICYCLE

To: Fred Hagan, Representative, 41st District, Orlando

Prepared by: Donald D. Conn, Assistant Attorney General

QUESTION:

Is the use of an international orange blinking safety light with less than 1 candlepower on bicycles prohibited?

SUMMARY:

The use on bicycles of an international orange blinking safety light with less than 1 candlepower is not prohibited.

I might point out that s. 316.111(1), F. S., provides that:

"Every person riding a bicycle upon a roadway shall be granted all of the rights and be subject to all of the duties applicable to the driver of a vehicle by this chapter, *except* as to special regulations in this chapter, and *except as to provisions of this chapter which by their nature can have no application*." (Emphasis supplied.)

One duty to which vehicle drivers are subject is found at s. 316.223(6), F. S., which provides, "[f]lashing lights are prohibited on *vehicles* except as a means of indicating a right or left turn, or to change lanes, or to indicate the vehicle is lawfully stopped or disabled upon the highway. . . ." (Emphasis supplied.)

In addition, s. 316.216(1), F. S., gives the Department of Highway Safety and Motor Vehicles authority:

". . . to approve or disapprove lighting devices and to issue and enforce regulations establishing standards and specifications for the approval of such lighting devices, their installation, adjustment, and aiming, and adjustment when in *use on motor vehicles*. Such regulations shall correlate with standards and specifications of the society of automotive engineers applicable to such equipment." (Emphasis supplied.)

In my opinion a bicycle is neither a "vehicle" nor "motor vehicle" as those terms are used in ss.

316.223(6) and 316.216(1), supra, and therefore the duties and prohibitions imposed thereby on the drivers of vehicles and motor vehicles do not apply to bicycle riders. *See* s. 316.003(2), (21), and (64), F. S. By their nature, ss. 316.223(6) and 316.216(1) can have no application to bicycle riders.

Section 316.111(9), F. S., prescribes certain types of lamps and reflectors which must be in place and in operation whenever a bicycle is operated after sundown. However, it is my opinion that an international orange blinking light on top of a safety flag or rod is outside the scope of s. 316.111(9), since such a light of less than 1 candlepower would not fall within the commonly accepted definitions of either a lamp or reflector. Therefore, since the device to which your question refers falls outside the purview of s. 316.111(9), its use on bicycles is not prohibited.

I would also like to note that s. 316.241, F. S., which relates to the selling or using of certain lamps or reflectors for use upon a motor vehicle, trailer, semitrailer, or pole trailers, does not refer to or affect the sale of lights for bicycles. *See* s. 316.003(2), (21), (32), (47), and (59), F. S.

There are a number of provisions in Ch. 316, F. S., which relate to motorcycles and their lighting equipment. *See, generally*, ss. 316.243-316.249. However, I do not feel that such provisions can be applied to bicycles since a motorcycle is separately defined in Ch. 316, and does not appear to fall within the definition of bicycle. *See* s. 316.003(2), (22), and (23).

Similarly, there are a number of provisions which relate to motor vehicles or vehicles and their lighting equipment. *See, generally*, ss. 316.217-316.231, F. S. Once again, such provisions should not be applied to bicycles since motor vehicles are separately defined in Ch. 316, F. S., and do not appear to fall within the definition of bicycle.

For these reasons, the controlling provision to which your question refers is s. 316.111, F. S., which specifically deals with bicycles, but nowhere therein are international orange blinking lights of less than 1 candlepower located on a safety flag or flag staff prohibited for use on a bicycle. Therefore, the statute as it now exists does not make the use of such orange blinking safety lights on bicycles unlawful, nor penalize such use under s. 316.112, F. S.

Finally, I should point out that s. 316.008(1)(h), F. S., provides that the provisions of Ch. 316 "shall not be deemed to prevent local authorities . . . within the reasonable exercise of the police power, from . . . regulating the operation of bicycles." Therefore, although not prohibited by Ch. 316, F. S., ordinances of counties and cities may have an effect upon the operation of bicycles and the use of such orange blinking lights located on a safety flag or staff within such counties and cities. In my opinion, however, the reasonableness of any such exercise by local authorities of the police power will have to be determined on a case-by-case basis with the need for uniformity in all traffic laws as expressed in s. 316.002 uppermost in mind.