

Mr. Donald F. Lett
Lett Electronics Company
410 North Plum
Hutchinson, KS 67501

Dear Mr. Lett:

This responds to your letter to me in which you asked whether any "pre-necessary authorization" is needed for molding white sidewalls onto existing passenger car tires. We assume "pre-necessary authorization" means this agency's prior approval or permission to modify the tires in the manner you propose.

You explained in your letter that you intend to modify existing radial passenger car blackwall tires by grinding a recess into one sidewall between 1/8 and 3/16 inches deep by 2« inches wide, then vulcanizing white rubber into that recess to transform a "D.O.T. approved radial blackwall tire" into a white sidewall tire. You would then market those tires, as modified, for classic cars of the 1955-1960 era.

By way of background, the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1381, et seq. (Safety Act), gives the National Highway Traffic Safety Administration (NHTSA) the authority to issue Federal motor vehicle safety standards (FMVSS) applicable to new motor vehicles and new items of motor vehicle equipment. Tires are considered motor vehicle equipment.

The Safety Act establishes a self-certification system in which vehicle and equipment manufacturers certify that their products comply with all applicable FMVSSs in effect on the date of manufacture. Because of this self-certification system, neither NHTSA nor the Department of Transportation (DOT) approves, endorses, certifies, or gives assurances of compliance of any product. Rather, NHTSA enforces its standards by testing products in accordance with the test procedures set forth in applicable FMVSSs. If the product meets the requirements of the standard, no further action is taken. If the product fails to comply, the manufacturer must notify the purchasers of the product and remedy the noncompliance without charge to the purchaser(s). Failure to comply with any FMVSS can also result in civil penalties of up to \$1,000 per violation, up to a maximum of \$800,000 for a series of related violations.

We assume from your letter that you propose to modify new radial passenger car tires. Whether the process you described is permissible depends on whether it adversely affects the tire's compliance with FMVSS No. 109, New Pneumatic Tires (copy enclosed). This standard specifies the performance requirements applicable to passenger car tires, which include tubeless tire resistance to bead unseating, tire strength, tire endurance, and high speed performance.

It does not appear that radial tires can be modified as you propose and still meet the requirements of Standard 109. The average radial tire sidewall is approximately 3/16 inch thick at the shoulder, gradually increasing to approximately 1/2 inch where the sidewall meets the bead. The radial sidewall is unsupported by cords, belts, or other material contributing to the strength of that sidewall. To achieve a 2« inch whitewall, at least some of the whitewall would extend into the tire shoulder. Therefore, cutting into a radial tire sidewall at the shoulder to a depth of 3/16 inch would cut through the sidewall. Cutting into the sidewall at the shoulder to a depth of 1/8 inch would leave approximately 1/16 inch of rubber on the shoulder of the tire. That would, obviously, have the effect of destroying the tire.

Section 108(a)(1)(A) of the Safety Act, 15 U.S.C. 1397 (a)(1)(A), prohibits any person from manufacturing or selling any new item of equipment that does not conform to all applicable FMVSSs. A new noncomplying tire that is sold to a retail customer would constitute a violation of 108(a)(1)(A), and is subject to the recall and civil penalties described above. In addition, 108(a)(2)(A) of the Safety Act, 15 U.S.C. 1397(a)(2)(A), prohibits a manufacturer, distributor, dealer, or motor vehicle repair business from knowingly rendering inoperative any safety device or element of design installed on or in a motor vehicle or item of motor vehicle equipment in compliance with a Federal motor vehicle safety standard. Accordingly, modifying previously-complying tires by removing them from compliance with the strength requirements of FMVSS 109 could violate 108(a)(2)(A), again subjecting the violator to the civil penalties described above.

Standard No. 109 also requires that certain information be molded into or onto the sidewalls of tires in certain specified locations and that the letters "DOT" appear on each tire sidewall to indicate the manufacturer's certification that the tire complies with all applicable FMVSSs. In addition, the Uniform Tire Quality Grading Standards (UTQGS), 49 CFR Part 575.104, provides that the ratings required by that section will be molded onto or into the sidewalls of tires. Therefore, if the modification you propose obliterates or removes any of the required labeling, that could violate FMVSS 109 and the UTQGS, again subjecting the violator to penalties.

In addition to the safety implications of grinding and filling recesses in tires, we also note that the suspension systems of older motor vehicles may not be compatible with radial tires. The handling and stability of those vehicles could be adversely affected by mounting radial tires on them, or by the mixing radial and bias ply tires, without appropriate modifications to their suspension systems.

Finally, I note that you used the term "previously D.O.T. approved" tire in your letter. As explained above, NHTSA does not use that term because neither NHTSA nor the Department of Transportation "approves" tires or any other motor vehicle product. We assume that by using that expression you mean that the tires you select for modification contain the "DOT" code that signify the manufacturer's, not NHTSA's, certification. Nevertheless, since the meaning of the term is unclear and might be misleading to consumers, we ask that you not use that term in any of your promotional materials.

I hope this information is helpful to you. Should you have any further questions or need any additional information, please feel free to contact Walter Myers of my staff at this address or at (202) 366-2992.

Sincerely,

John Womack Acting Chief Counsel

Enclosure

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