



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

September 12, 2003

Jeffrey B. Moore, Executive Director
South Carolina Sheriffs' Association
P. O. Box 21428
Columbia, South Carolina 29221-1428

Dear Jeff:

In a letter to this office you raised a question regarding vehicles tagged by law enforcement. According to your letter, the vehicles are tagged after breaking down and then being abandoned on the highways.

You referenced the provisions of newly enacted Act No. 71 of 2003 which included a provision detailing the disposition of vehicles ordered towed by law enforcement, S.C. Code Ann. Section 56-5-5635. That provision states in part:

Notwithstanding another provision of law, a law enforcement officer who directs that a vehicle be towed for any reason, whether on public or private property, shall use the established towing procedure for his jurisdiction. A request by a law enforcement officer resulting from a law enforcement action including, but not limited to, a motor vehicle collision, vehicle breakdown, or vehicle recovery incident to an arrest, is deemed a law enforcement towing for purposes of recovering costs associated with the towing and storage of the vehicle or other property, unless the request for towing is made by a law enforcement officer at the direct request of the owner or operator of the vehicle.

You questioned whether the disposition of the tagged vehicles referenced in your letter is controlled by Section 56-5-5635 or previously enacted S.C. Code Ann. Section 56-5-5850 (Supp. 2003) which provides in part:

When any vehicle is left unattended on a highway or on other public or private property without the consent of the owner or person in control of the property, an officer may place a colored tag on the vehicle which shall be notice to the owner, the person in possession of the vehicle or any lienholder that it may be considered to be derelict or abandoned and is subject to forfeiture to the State.

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Section 56-5-5850 is included in the provisions of S.C. Code Ann. Sections 56-5-5810 et seq. (Supp. 2003) which deal with the disposition of abandoned or derelict vehicles on private or public property. Pursuant to Section 56 -5-5840 "(a)ll abandoned and derelict vehicles shall be subject to removal from public or private property and disposed of in accordance with the provisions of this article."

As to you question as to whether a vehicle tagged by a law enforcement officer is to be disposed of pursuant to newly-enacted Section 56-5-5635 or 56-5-5850, it appears that Section 56-5-5850 would control. Section 56-5-5635 controls as to those vehicles directed to be towed by law enforcement officers in situations resulting from a law enforcement action, such as a collision, vehicle breakdown or vehicle recovery incident to arrest. Section 56-5-5850 applies as to vehicles considered abandoned or derelict and left on the highway or other public or private property which are then tagged by law enforcement.

If there are any questions, please advise.

Sincerely,



Charles H. Richardson
Senior Assistant Attorney General

cc: The Honorable William H. Womble, Jr.