

1977 S.C. Op. Atty. Gen. 207 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-270, 1977 WL 24610

Office of the Attorney General

State of South Carolina

Opinion No. 77-270

August 26, 1977

*1 TO: Paul W. Cobb
Chief Highway Commissioner

QUESTION

Must all vehicles stop when meeting or overtaking church operated buses which are stationary and loading and unloading passengers?

AUTHORITIES

Code of Laws of South Carolina Section 56-3-20-(6) (1976)

Code of Laws of South Carolina Section 56-3-630, (1976)

Code of Laws of South Carolina Section 56-5-1520 (1976)

Code of Laws of South Carolina Section 56-5-2770 (1976)

Code of Laws of South Carolina Section 56-5-3230 (1976)

Code of Laws of South Carolina Section 59-67-40 (1976)

Code of Laws of South Carolina Section 59-67-60 (1976)

60 A C.J.S. Motor Vehicles § 392 (1951)

DISCUSSION

You have requested the opinion of this office as to whether vehicles meeting or overtaking church operated buses which are stationary and loading or unloading passengers must stop as they would for school buses. There does not appear to be any statute conferring the same privileges and protection granted to school buses to any other class of vehicles. In the absence of any such statute, and in light of the several statutes concerning school buses, *infra*, it would appear that Church operated buses do not enjoy the protection of § 56-5-2770, Code of Laws of South Carolina (1976). This section provides, in applicable part: The driver of a vehicle upon a highway upon meeting or overtaking from either direction any school bus which has stopped on the highway for the purpose of receiving or discharging any school children shall stop the vehicle before reaching such school bus and shall not proceed until such school bus resumes motion or until signalled by the driver to proceed.

A school bus is defined by Code of Laws of South Carolina § 56-3-20-(6) (1976), as:

every bus owned by a public or government agency and operated for the transportation of children to or from school, or privately owned and operated for the transportation of children to or from school.

Thus, as church operated buses used for other than school purposes do not fall into this definition, they cannot receive the protection granted to school buses as an exclusive class by § 56-5-2770.

Code of Laws of South Carolina § 59-67-40 (1976) requires that when a school bus is no longer used for school purposes and is sold, then all markings designating it as a school bus must be removed before any private or other public use may be made of it. Indeed, Code of Laws of South Carolina § 59-67-60 (1976), stipulates that '[a]ny person who purchases a used school bus must paint it a color other than yellow.' From these statutes, it easily follows that it was the intention of the legislature that all buses not used for school buses should be readily distinguishable from the latter, and only those clearly marked and defined as school buses should receive the protection of § 56-5-2770.

Under Article 5 of Title 56 there is a section that does categorize church operated buses and school buses in the same class. Code of Laws of South Carolina § 56-3-630 (1976). However, Article 5 deals exclusively with registration and license fees, and this section would have no bearing on traffic regulation and the applicability of § 56-5-2770 to the operation of Church buses.

*2 Although South Carolina has no statute or case exactly on point, the general law is that it is the duty of the driver of a motor vehicle, when approaching another vehicle standing in the highway, to observe whether there are persons entering or leaving that vehicle, and to exercise reasonable care to avoid injuring any such person, 60 A C.J.S. Motor Vehicles § 392 at 761; Compare Code of Laws of South Carolina §§ 56-5-1520 and 56-5-3230 (1976). Thus while church buses operating for other than school purposes are not explicitly protected by § 56-5-27 it is nevertheless the duty of an approaching motorist to take special note of a potentially hazardous situation.

CONCLUSION

A vehicle is not necessarily required to stop when meeting or overtaking church buses operating for other than school purposes which are stationary and loading or unloading passengers; however, upon observing such a stopped bus, all approaching motorists must exercise reasonable care to avoid injuring any boarding or disembarking passengers.

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