



ALAN WILSON
ATTORNEY GENERAL

September 3, 2026

The Honorable William H. Bailey, Member
South Carolina House of Representatives
530-D Blatt Building
Columbia, SC 29201

Dear Representative Bailey:

Attorney General Alan Wilson referred your letter to the Opinions section for a response. You seek an opinion regarding wrecker services called to accident scenes by Highway Patrol. You ask whether we are aware of any authority which gives Highway Patrol officers the ability to require wreckers to give rides to motorists after an accident or the ability to require motorists to ride with the wreckers.

Regarding the obligation of wreckers to provide rides to motorists, the answer can be found in S.C. Reg. § 38-600(F)(2)(a)(1). For a standard tow the wrecker's fee covers "responding to the scene, hooking up the vehicle, performing a general clean up if the call involves responding to a collision scene and **providing responsible assistance to the owner to get to a safe location.**" Thus, a wrecker service who has volunteered to participate in the Highway Patrol call rotation has agreed to "provid[e] responsible assistance to the owner to get to a safe location." This regulation does not appear to support requiring the wrecker to transport motorists who are not the owner of the vehicle, such as a passenger or driver other than the owner. Notably, the assistance must include travel to a safe location. This does not necessarily mean the tow yard or any location of the owner's choosing. Instead, we think a court would likely conclude that this simply means a location other than the side of a highway. Also, the word "reasonable" makes clear that providing this assistance should not cause an undue burden on the tow company.

Regarding the authority of Highway Patrol officers to require a motorist to ride with the wrecker, Highway Patrol officers likely have some authority to require motorists to leave the side of a highway but not to direct how. The side of a highway is an inherently dangerous place. We have the utmost respect for law enforcement and understand that they are often called upon to mediate difficult and dangerous situations; however, as discussed in this opinion from 1969, they must act within the authority granted to them by the General Assembly. Op. S.C. Att'y Gen., 1969 WL 15114 (Aug. 6, 1969). After an accident, motorists are still subject to the general prohibition on loitering on the side of a state highway, but we are not aware of anything which supports the proposition that Highway Patrol officers may require stranded motorists to ride with the wrecker.

Representative William H. Bailey

Page 2

September 3, 2026

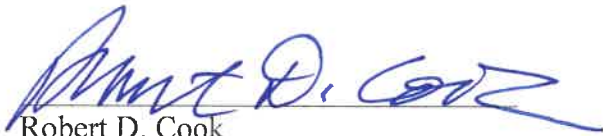
We understand from DPS that efforts are underway to amend these regulations, and we would encourage you and the Department to work together to address your concerns and provide additional clarity in those amendments. Alternatively, the scope of the Department's authority may need to be addressed in legislation.

Sincerely,



David Leggett
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General Emeritus