

1972 S.C. Op. Atty. Gen. 115 (S.C.A.G.), 1972 S.C. Op. Atty. Gen. No. 3300, 1972 WL 20441

Office of the Attorney General

State of South Carolina

Opinion No. 3300

April 17, 1972

**\*1 Re: No. 123, Highways The term ‘separate roadways,’ as used in Section 46–477, means roadways which are separated by some physical barrier from other portions of the highway.**

Sergeant Frank Hayes  
South Carolina Highway Patrol  
State Highway Department  
Gaffney, South Carolina

Dear Sergeant Hayes:

This office has been requested to provide you with an opinion as to what is meant by the term ‘separate roadways,’ as it is used in Section 46–477, Code of Laws of South Carolina (1962), ‘Meeting, overtaking and passing school bus.’

The obvious intent of the subject provision is to prohibit traffic in areas where school buses are stopped to receive or discharge children, who may be expected to cross the highway. In fact, as you will note from the second paragraph of Section 46–477, the exception to this proscription against passing stopped school buses applies only when there are separate roadways or the school bus is stopped in a loading zone, which is a part of or adjacent to the highway, and in either case it must be a place ‘where pedestrians are not permitted to cross the highway.’ Otherwise, on highways where pedestrians may cross, school children may be, and should be, expected to cross in front of or behind school buses which are stopped to receive or discharge them. Thus, a separate roadway, which would permit drivers of vehicles to proceed pass a stopped school bus, must be one that is more than just a ‘laned roadway,’ which is defined as being ‘a roadway divided into two or more clearly marked lanes of traffic.’ Section 46–255. Moreover, it should be noted that, although a separate roadway may be designated for one-way traffic, Section 46–391, the term ‘roadway’ is said to mean ‘[the] entire portion of highway devoted to vehicular traffic and not just the portion upon which vehicles travel in the same direction.’ [Futz v. Griffin](#), 17 Cal. Rptr. 385, 197 C.A.2d 397. Cf. Section 46–254.

It is therefore the opinion of this office that a ‘separate roadway’ must be one that is separated by some physical barrier, such as a median or other obstruction. The clearest example is the controlled access highways, within the limits of which pedestrians are prohibited except under certain expressed circumstances. Section 46–436.1. Neither a multilaned roadway permitting two-way traffic nor one designated for one-way traffic only would be within the meaning of ‘separate roadway,’ unless there is some physical barrier dividing it from the other portions of the highway.

I trust that the foregoing sufficiently defines the subject term.

Sincerely,

Alexander S. Macaulay  
Assistant Attorney General

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