

October 9, 2007

The Honorable G. T. Ferguson
Magistrate, Abbeville County
P. O. Box 1156
Abbeville, South Carolina 29620

Dear Magistrate Ferguson:

In a letter to this office you referenced the provisions of S.C. Code Ann. § 56-5-1538 which provide for emergency scene management. You questioned whether such provisions apply to a traffic stop with only law enforcement vehicles present and no emergency crews or vehicles present.

Section 56-5-1538(A) defines an “emergency scene” as “...a location designated by the potential need to provide emergency medical care and is identified by emergency vehicles with flashing lights, rescue equipment, or emergency personnel on the scene.” Subsection (B) states that “[a]n emergency scene is a special hazard.” Subsection (C) states that “[a]ll motor vehicles passing through an emergency scene and pedestrians observing an emergency scene must obey and not interfere with the duties of emergency personnel.” Subsections (F) and (G) state that

[t]he driver of a vehicle shall ensure that the vehicle is kept under control when approaching or passing an emergency scene or authorized emergency vehicle stopped on or near the right-of-way of a street or highway with emergency lights flashing. The exercise of control required for a driver to comply with this section is that control possible and necessary by the driver to prevent a collision, to prevent injury to persons or property, and to avoid interference with the performance of emergency duties by emergency personnel.

A person driving a vehicle approaching a stationary authorized emergency vehicle that is giving a signal by displaying alternately flashing red, red and white, blue, or red and blue lights, or amber or yellow warning lights shall proceed with due caution, significantly reduce the speed of the vehicle, and

(1) yield the right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle, if possible with

The Honorable G. T. Ferguson
Page 2
October 9, 2007

due regard to the safety and traffic conditions, if on a highway having at least four lanes with not less than two lanes proceeding in the same direction as the approaching vehicle; or

(2) maintain a safe speed for road conditions, if changing lanes is impossible or unsafe.

Subsection (H) provides that an individual violating such provisions is “guilty of the misdemeanor of endangering emergency services personnel”. The term “emergency services personnel” is defined by subsection (I)(2) as “...fire, police, or emergency medical services personnel (EMS) responding to an emergency incident.” (emphasis added).

In the opinion of this office, Section 56-5-1538 would not be applicable to a traffic stop involving only law enforcement vehicles where there is no “emergency scene” which, as set forth above by subsection (A), is defined as “a location designated by the potential need to provide emergency medical care and is identified by emergency vehicles with flashing lights, rescue equipment, or emergency personnel on the scene.” As separately stated by subsection (B), an emergency scene is “a special hazard” which, in the opinion of this office, includes some type of medical care being provided. Subsection (H) provides a criminal violation for “endangering emergency services personnel”. The term “emergency services personnel” is defined as personnel “responding to an emergency incident.” In the opinion of this office, a simple traffic stop for a traffic infraction would not be included in the prohibitions to Section 56-5-1538.

If there are any questions, please advise.

Sincerely,

Henry McMaster
Attorney General

By: Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Assistant Deputy Attorney General