

7214 Liberty



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

September 10, 2001

The Honorable Vincent A. Sheheen
Member, House of Representatives
P.O. Drawer 10
Camden, South Carolina 29020-0010

Re: Your Letter of July 27, 2001
S.C. Code Ann. §§56-5-1520 & 56-5-1538

Dear Representative Sheheen:

You have requested an advisory opinion from this Office on the application and scope of S.C. Code Ann. §§56-5-1538 and 56-5-1520. Specifically, you ask:

Does the driver of a motor vehicle owe a duty to watch for emergency personnel, and take precautions, including speed reduction, when approaching an emergency scene as defined under S.C. Code Ann. Section 56-5-1538?

In your letter, you indicate that you "believe that Section 56-5-1538 and Section 56-5-1520 clearly establish a duty that a driver slow down and watch for emergency personnel when approaching an emergency scene."

Section 56-5-1520 is titled "General rules as to maximum speed limits: lower speeds may be required" and provides, in pertinent part, as follows"

(A) A person shall not drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Speed must be so controlled to avoid colliding with a person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and the duty of a person to use care.

...

(F) The driver of a vehicle shall drive, consistent with the requirements of subsection (A), at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, approaching

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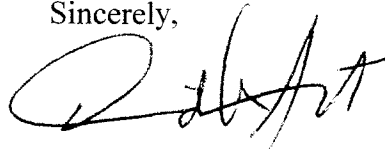
a hillcrest, when traveling upon any narrow bridge, narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

Further, Section 56-5-1538 defines an "emergency scene" and specifically provides that an emergency scene is "a special hazard." In interpreting Section 56-5-1520, our Court of Appeals noted that the Section requires a motorist to drive at an appropriately reduced speed "when [a] special hazard exists with respect pedestrians or other traffic or by reason of weather or other highway conditions." Husted v. Bostic, 295 S.C. 248, 368 S.E.2d 67 (1988). As an emergency scene has been expressly designated as a special hazard, it is apparent that, when approaching an emergency scene, a driver should drive at an "appropriately reduced speed." It is further apparent that a driver approaching such a scene would be under the general duty expressed in Section 56-5-1520(A) to control his/her speed so as to "avoid colliding with a person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and the duty of a person to use care."

In addition to defining an emergency scene, Section 56-5-1538(C) also provides that an "emergency scene is under the authority of the first arriving emergency personnel, which includes emergency medical services personnel, until the arrival of the fire or law enforcement officials having jurisdiction. [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 ..." This subsection appears to impose an additional duty on a driver approaching an emergency scene to obey any commands of the emergency personnel on the scene and avoid interfering with such personnel. Of course, whether an emergency scene exist, what is an "appropriately reduced speed" and whether a driver has failed to obey emergency personnel at an emergency scene are questions of fact upon which this Office cannot comment. See OP. ATTY. GEN. (Dated August, 5, 1992).

This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General and not officially published in the manner of a formal opinion.

Sincerely,



David K. Avant
Assistant Attorney General

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