



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

July 10, 1996

Captain Thomas B. Robertson, Jr.
Traffic Division Commander
City of Charleston Police Department
180 Lockwood Blvd.
Charleston, South Carolina 29403

Re: Informal Opinion

Dear Captain Robertson:

You have sought an opinion regarding S. C. Code Ann. 56-5-765. You reference an earlier Opinion of this Office, Op. Atty. Gen., Op. No. 94-64. Your question is whether your Department can "work an employee's accident when they are not operating their own private vehicle but one that belongs to another person when there is no reported injury or death?"

LAW / ANALYSIS

Section 56-5-765 provides as follows:

(A) When a motor vehicle or motorcycle of a law enforcement agency, except a motor vehicle or motorcycle operated by the South Carolina Department of Public Safety, is involved in a traffic collision that results in an injury or a death, or involves a privately-owned motor vehicle or motorcycle, regardless of whether another motor vehicle or motorcycle is involved, the State Highway Patrol shall investigate the collision and file a report with findings on whether the agency motor vehicle or motorcycle was operated properly within the guidelines of appropriate statutes and regulations.

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(B) When a motor vehicle or motorcycle of the Department of Public Safety is involved in a traffic collision that results in an injury or a death, or involves a privately-owned motor vehicle or motorcycle, regardless of whether another motor vehicle or motorcycle is involved, the sheriff of the county in which the collision occurred shall investigate the collision, regardless of whether the collision occurred within an incorporated jurisdiction, and file a report with findings on whether the department's motor vehicle or motorcycle was operated properly within the guidelines of appropriate statutes and regulations.

(C) A law enforcement department or agency may not investigate collisions in which a vehicle or an employee of that department or agency is involved that results in an injury or a death, or involves a privately-owned motor vehicle or motorcycle, regardless of whether another motor vehicle or motorcycle is involved.

The cardinal principle of statutory construction is to effectuate legislative intent. Merchants Mut. Ins. Co. v. South Carolina Second Injury Fund, 277 S.C. 604, 291 S.E.2d 667 (1992). The language of a statute must be construed in light of the intended purpose. Moreover, a remedial statute, such as § 56-5-765, must be broadly construed in order to effectuate its purpose. South Carolina Dept. of Mental Health v. Hanna, 270 S.C. 210, 241 S.E.2d 563 (1978).

The obvious purpose of § 56-5-765 is to avoid conflicts of interest and to insure accountability. Op. Atty. Gen., July 19, 1995 (Informal Op.). You reference Op. No. 94-64 (October 26, 1994) wherein it was stated:

[i]n your third question you addressed Subsection (C), asking whether it applied where an officer was driving his or her private vehicle. Subsection (C) prohibits a law enforcement agency from investigating collisions in which an employee of that agency was involved. Looking at the grammatical arrangement of the sentence, and giving it its plain and ordinary meaning, I would advise you that where a law enforcement officer is involved in a collision driving his or her private vehicle, that person's agency should not conduct the investigation. Again, as in Subsection (B), there is no

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qualification or limitation placed upon the word "vehicle" in Subsection (C), or upon "employee." It would seem that such a conclusion is the logical intent of this statute, which appears to be to remove the appearance of impropriety or the possibility of a conflict of interest in the investigation of motor vehicle collisions involving law enforcement officers.

Notwithstanding the fact that this Opinion only addressed the situation where an employee of a law enforcement vehicle was driving his own vehicle, the Opinion is by no means limited to such situation. The Opinion specifically recognizes that "there is no qualification or limitation placed upon the word 'vehicle' in Subsection (C), or upon 'employee'" In amending the statute by 1995 Act. No. 138, the General Assembly gave no indication whatever that an employee of a law enforcement agency driving another's vehicle and involved in a collision would not be covered by Section 56-5-765 (C). The same conflict of interest would be involved with a law enforcement agency's investigation of its employee's collision regardless of whether that employee was driving his own vehicle or that of another. Accordingly, I would advise that, in view of Section 56-5-765's broad remedial purpose, the situation which you reference would be covered by Section 56-5-765 (C).

This letter is an informal opinion only. It has been written by a designated Assistant Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Very truly yours,



Robert D. Cook
Assistant Deputy Attorney General

RDC/ph