

The State of South Carolina



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September 17, 1990

Carl J. Garris, Jr., Deputy Superintendent  
Finance and Operations  
Department of Education  
Rutledge Building  
1429 Senate Street  
Columbia, South Carolina 29201

Dear Mr. Garris:

In a letter to this Office you referenced Section 56-5-2770 of the Code which provides in part

(a) The driver of a vehicle meeting or overtaking from either direction any school bus stopped on the highway shall stop before reaching the bus where there are in operation on the bus flashing red lights ... and the driver shall not proceed until the bus resumes motion or the flashing red lights are no longer actuated....  
(d) The driver of a vehicle need not stop upon meeting a stopped school bus:

1. When the bus is in a passenger loading zone completely off the main travel lanes and when pedestrians are not allowed to cross the roadway.

2. On highways where the roadways are separated by an earth or raised concrete median.

(e) The driver of a vehicle must stop upon meeting or passing a stopped school bus:

1. On any two-lane highway.

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2. On any four-lane or multi-laned highway where opposing highway is separated only by painted lines on the roadway or a narrow gravel median.

3. When overtaking a school bus which has red or amber signals actuated. (emphasis added)

You particularly cited the requirement that a driver stop when meeting or passing a stopped school bus where the opposing highway is separated only by "painted lines" or a "narrow gravel median." You stated

The problem exists with the four-lane or multi-lane highways which have the center of the roadway designated by the use of solid yellow lines approximately 15 feet apart. Due to this width and because the terminology used in Sub-Section E, Number 2 offers no clear explanation as to what is or is not narrow, law enforcement officials feel they do not have adequate support to enforce the Statute on this type roadway.

The median between the yellow lines has a solid base with some loose gravel or stone on the surface. This type median can easily be traversed by motor vehicles legally negotiating turning movements or in the event of an emergency, because there is no physical barrier or obstruction to prohibit this type of vehicular travel.

You indicated that the State Department of Education and others involved in school bus transportation feel that enforcement is mandatory to protect students' safety.

I am unaware of any prior opinions of this Office or decisions by the State Supreme Court interpreting such provision. Before Section 56-5-2770 was amended in 1978, the statute required that

the driver of a vehicle upon a highway upon meeting or overtaking from either direction any school bus which has stopped on the highway for the purpose of receiving or discharging any school children shall stop the vehicle before reaching such school bus and shall not proceed until such school bus resumes motion or until signalled by the driver to proceed.

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The statute further indicated that a driver was not required to stop upon meeting or passing a school bus "... which is on a different roadway or when the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway." Therefore the former statute was specific in providing an exception to not stopping for a stopped school bus only where there were separate roadways or where the bus was stopped at an area where children were not permitted to cross a highway.

A prior opinion of this Office dated April 17, 1972 interpreting such former provision determined that

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 other portions of the highway.

Another opinion of this Office dated September 26, 1969, also construing the former provision, dealt with the question of whether all four lanes on a highway must stop for a stopped school bus. The two lanes in each direction were divided by a gravel median. The opinion concluded that the situation cited was a single roadway and as a result, all traffic should stop. It was noted that the conclusion would have been different "if the median separating the roads were a barrier type or if different elevations were involved." An opinion of this Office dated August 26, 1977 referenced that "... the general law is that it is the duty of the driver of a motor vehicle, when approaching another vehicle standing in the highway, to observe whether there are persons entering or leaving that vehicle, and to exercise reasonable care to avoid injuring any such person."

As to present Section 56-5-2770, it is specifically stated that a driver is not required to stop when meeting a stopped school bus

1. When the bus is in a passenger loading zone completely off the main travel lanes and when pedestrians are not allowed to cross the roadway.

2. On highways where the roadways are separated by an earth or raised concrete median.

As to a four-lane or multi-laned highway a driver is required to stop "... where the opposing highway is separated only by painted lines on the roadway or a narrow gravel median." Also, a stop must be made "when overtaking a school bus which has red or amber signals actuated."

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As to the situation you described involving a multi-lane highway with the center designated by the use of solid yellow lines approximately fifteen feet apart, it appears that a driver meeting or passing a school bus on such a highway would be required to stop. In such a situation, the highway is separated by painted lines, a situation clearly within the provisions of Section 56-5-2770 (e) (2). Also as referenced, pursuant to Section 56-5-2770 (d) a driver is not required to stop only if a school bus is in a passenger loading zone completely off the travel lanes and a passenger is not permitted to cross a roadway or in circumstances where the roadways are separated by earth or raised medians. While not defined precisely, the median you described arguably would also fall within the definition of a "narrow gravel median". Presumably, the bus would also have its signal lights actuated. In other words, in situations such as described by you, reference should be made to the provisions of subsection (d) of Section 56-5-2770 which set forth situations where stops are not required as well as the provisions of subsection (e) which describe situations where stops are required, such as a four-lane or multi-laned highway where the opposing highway is separated only by painted lines.

If there is anything further, please advise.


Sincerely,



Charles H. Richardson  
Assistant Attorney General

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REVIEWED AND APPROVED BY:



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