

1982 S.C. Op. Atty. Gen. 7 (S.C.A.G.), 1982 S.C. Op. Atty. Gen. No. 82-3, 1982 WL 154973

Office of the Attorney General

State of South Carolina

Opinion No. 82-3

January 20, 1982

***1 Re: Child Restraint Devices**

The Honorable John C. Land, III

Member

South Carolina Senate

Drawer G

Manning, South Carolina 29102

Dear Senator:

Thank you for your letter of January 19 concerning the liability which may rest upon a charitable organization by virtue of lending, donating or promoting the use of child restraint seats.

Of course, charitable organizations formerly enjoyed immunity from suit for tortious conduct. This charitable immunity was removed by a decision of the South Carolina Supreme Court dated August 31, 1981, styled 'Fitzer v. Greater Greenville YMCA,' in which case the Court, by a four-to-one majority, held that the doctrine of charitable immunity 'has no place in today's society. (And) a charitable institution is subject to liability for its tortious conduct the same as any other person or corporation.' Justice Littlejohn dissented, stating that this issue involved a matter of policy which should be dealt with by the Legislature, and not by the courts.

The answer to your question, therefore, is that the charitable organization to which you refer in your letter has the same liability as any other person or corporation for its tortious conduct. I have previously recommended to the General Assembly on January 8, 1982, that the Legislature fix a limit of liability for charitable organizations, and I suggested that a maximum liability of \$12,000 might be appropriate. I believe also that the Legislature could by statute provide that charitable organizations enjoy the same immunity from tort liability that they heretofore enjoyed by Court Rule. I have not prepared any draft of suggested legislation, but I will, of course, undertake this should you so request.

Very truly yours,

Daniel R. McLeod

Attorney General

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