

1982 S.C. Op. Atty. Gen. 58 (S.C.A.G.), 1982 S.C. Op. Atty. Gen. No. 82-52, 1982 WL 155021

Office of the Attorney General

State of South Carolina

Opinion No. 82-52

July 27, 1982

***1 SUBJECT: Unclaimed property—Motor Vehicles**

(1) South Carolina Welcome Centers are part of the highway right-of-way system.

(2) A municipality disposing of abandoned motor vehicles found on the highway right-of-way may not convert the vehicle to its own use but rather must follow the procedure set forth in §§ 56–5–5610 through 56–5–5680.

TO: Sarah E. Martin
Clerk Treasurer
Town of Hardeeville

QUESTION:

1. Which code section would apply to a vehicle abandoned at the South Carolina Welcome Center on I–95 near Hardeeville?
2. Can a municipality pay all expenses incurred i.e. wrecker service, auction fees, etc., and convert the abandoned vehicle to use by the municipality after following the steps prescribed by statute insofar as notification of previous or current owners and lien holders?

DISCUSSION:

[S. C. Code § 57–3–650 \(1976\)](#) authorizes the South Carolina Department of Highways and Public Transportation to acquire strips of land along highways and to construct and maintain rest areas and information centers thereon. A review of Department records reveals that the information center in question is situated on land acquired by the Department in fee simple through condemnation.

Section 56–5–430 defines highway as the ‘entire width between boundary lines of every way publicly maintained when any part thereof is open to use of the public for purposes of vehicular traffic’. The land occupied by the rest area/information center is clearly covered by this definition and is, therefore, a part of the highway. Section 56–5–110 makes this definition applicable throughout all of Chapter 5 of Title 56.

Section 56–5–5610 defines an ‘abandoned motor vehicle’ as:

A motor vehicle that is left on any right-of-way or any road or highway in this State for a period of over 48 hours.

Section 56–5–5840 states:

All abandoned and derelict motor vehicles shall be subject to removal from public or private property and disposed of in accordance with the provisions of this article; provided that all abandoned motor vehicles left on any right-of-way of any road, street or highway for a period of over 48 hours shall be removed and disposed of as provided for in §§ 56–5–5610 to 56–5–5680.

According to the above quoted statutory authority, a motor vehicle abandoned on the property of a South Carolina Welcome Center must be considered to have been left on the right-of-way of a highway in this State. Therefore, the provisions for disposing of the abandoned vehicle are found in §§ 56-5-5610 through 56-5-5680, and not §§ 56-5-5810 through 56-5-5950.

According to § 56-5-5620 abandoned vehicles are to be seized and removed for safekeeping to the custody of the Sheriff or the Chief of Police, depending upon where the vehicle is found. Such law enforcement officer 'shall be charged with its custody and disposition as provided in this article.' The proper and only method of disposition of these unclaimed vehicles is found in § 56-5-5640. That section states in part: 'If an abandoned vehicle has not been reclaimed as provided for in § 56-5-5630, the Sheriff or Chief of Police shall sell the abandoned vehicle at a public auction . . .'. The municipality or the county is entitled to reimbursement for its expenses in conducting the auction, cost of towing, and other costs related to the sale of the vehicle. This reimbursement must come from the proceeds of the sale of the vehicle. Section 56-5-5640 then states: 'Any remainder from the proceeds of the sale shall be held for the owner of the vehicle or entitled lienholder for 90 days and then shall be deposited in the general fund of the county or municipality.' Section 56-5-5650 provides for a procedure whereby anyone damaged by the sale of the vehicle may appear and make a claim to the county or municipality.

***2** There is no provision in the Act for the municipality to convert the vehicle to its own use even if it is unclaimed. The provisions for public auction are set forth in language that is mandatory as are all of the other provisions for disposing of vehicles abandoned on a public highway right-of-way. As further evidence of the mandatory nature of the method of disposition, there is a penalty section found at § 56-5-5680 which makes it a misdemeanor for any person to violate the provisions of the article.

OPINION:

Therefore, it is the opinion of this Office that any abandoned motor vehicles found at a South Carolina Welcome Center must be disposed of according to §§ 56-5-5610 through 56-5-5680. It is further the opinion of this Office that the local governing body disposing of the vehicle may not convert the vehicle to its own use, but rather must follow the mandatory provisions of the act.

William L. Todd
Assistant Attorney General

1982 S.C. Op. Atty. Gen. 58 (S.C.A.G.), 1982 S.C. Op. Atty. Gen. No. 82-52, 1982 WL 155021