

1980 WL 120703 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 11, 1980

***1 RE: Opinion Request Concerning Authorized Emergency Vehicles**

Thomas E. Bright
Chief of Police
Town of Duncan
Drawer 188
Duncan, South Carolina 29334

Dear Chief Bright:

In response to your inquiries concerning authorized emergency vehicles, I trust that the following information is useful to you.

Section 56-5-170 (Cum. Supp. 1979) provides ‘. . . private vehicles while transporting individuals actually engaged in emergency activities because of the membership of one of more occupants of a fire department, police department or rescue squad are ‘authorized emergency vehicles’.’ [Code § 56-5-4700\(a\)](#) requires that every authorized emergency vehicle be equipped with a siren exhaust whistle or bell capable of giving an audible signal. Subsection (b) of that section provides that vehicles of any fire department are to be equipped with a mounted, oscillating, rotating or flashing red light, visible in all directions for a distance of 500 feet in normal sunlight, but, they are not required to have any additional signal lamps. It should be noted that [Code § 56-5-4970](#) requires that the siren, whistle or bell be capable of emitting a sound audible under normal conditions for a distance of not less than 500 feet, and be of a type approved by the Department of Highways and Public Transportation, and that such sirens are not to be used except when the vehicle is operated in response to emergency call.

There are no statutory limitations as to the number of members of a fire department allowed to use the lights described in the above-referenced Code Sections.

As to the privileges accorded drivers of authorized emergency vehicles, [Code § 56-5-2360 \(Cum. Supp. 1979\)](#) provides that upon the approach of an authorized emergency vehicle which is making use of an audible signal which meets the requirements of [§ 56-5-4970](#) and the visual signals meeting the requirements of [§ 56-5-4700](#), the driver of any other vehicle must yield the right of way, immediately drive to a position parallel to and as close as possible to the right hand edge or curb of the roadway, clear of any intersection, and is to stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. Subsection (b) of that Section provides that the driver of an authorized emergency vehicle is not relieved from the duty to drive with due care for the safety of all persons using the highway. [Code § 56-5-760 \(Cum. Supp. 1979\)](#) provides that the driver of an emergency vehicle when responding to an emergency call may: (1) park or stand, notwithstanding any other provision of law; (2) proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation; (3) exceed the maximum speed limits so long as it does not endanger life or property; and, (4) disregard regulations governing direction and movement or turning in specific directions. It is explicitly clear that the exemptions granted to emergency vehicles apply only when the vehicle is making use of the audible and visual signals required. That Section also provides that its provisions do not relieve the driver of an authorized emergency vehicle from the duty to drive with due care for the safety of all persons nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. Enclosed you will find a copy of Opinion 4538, December, 1976, concerning this Code Section.

*2 With reference to your question concerning the liability of the individual, the fire department or the municipality, as is pointed out in the opinion just referred to above, every case involving an accident between an emergency vehicle and a civilian motorist must be evaluated under its own circumstances. Each of the entities described above may be sued by an individual for negligence. The liability of municipalities is controlled by statute. Individual liability would be governed by traditional tort theories if he is not absolved from liability exposure and suit. The outcome of such a suit will depend on the facts and legal theories which were applicable in a given fact situation, and an opinion as to whom is responsible without the benefit of those facts and circumstances would be inappropriate.

Very truly yours,

Richard D. Bybee
Assistant Attorney General

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