

1980 WL 120856 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 4, 1980

*1 Senator M.E. McDonald
Post Office Box 142
Columbia, SC 29202

Dear Senator McDonald:

In a letter from Ms. Sandra Hinson to this Office, the following questions were asked on your behalf:

1. Who is liable when a volunteer fireman is using his own vehicle to go to a fire and he accidentally runs into another vehicle?
2. Who is liable when the volunteer fireman is parked illegally, attending the fire, and someone runs into his car?

As to such questions, a specific response cannot be provided as to all situations which may arise. However, by statute, certain exemptions from the laws governing the operation of motor vehicles are provided the operator of authorized emergency vehicles in this State which would have a bearing in determining the liability of a volunteer fireman as to the situations put forth in your letter.

Pursuant to [Section 56-5-170, Code of Laws of South Carolina, 1976](#), as amended, 'authorized emergency vehicles' are defined as:

'(f)ire department vehicles, police vehicles, ambulances and rescue squad vehicles which are publicly owned, other emergency vehicles designated by the Department or the chief of police of a municipality, and public and private vehicles while transporting individuals actually engaged in emergency activities because of the membership of one or more occupants of a fire department, police department or rescue squad. . . .' [Emphasis added]

I have been informed by Mr. Andrew Leventis, Research Director, House Education and Public Works Committee, that the Legislature intended that the reference to 'fire department' in the above definition be read to include volunteer fire departments. (The definition as stated above was a part of Act No. 461 of 1978. The former definition had been interpreted by this Office in 1967 Opinion of the Attorney General No. 2256, page 64, as not applying to personal automobiles of members of volunteer fire departments).

As previously referenced, operators of authorized emergency vehicles while responding to emergency calls are exempted from certain laws, governing the operation of motor vehicles in this State under certain circumstances. [Section 56-5-760, Code of Laws of South Carolina, 1976](#), as amended, permits the driver of an authorized emergency vehicle

' . . . when responding to an emergency call . . . or when responding to but not upon returning from a fire alarm . . . (to) . . .

1. Park or stand, notwithstanding any other provision of this chapter.
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 limit so long as he does not endanger life or property.
4. Disregard regulations governing direction of movement or turning in specified directions.'

It is also provided that such exemptions granted to an authorized emergency vehicle

‘. . . shall apply only when such vehicle is making use of an audible signal meeting the requirements of Section 56-5-4970 and visual signals meeting the requirements of Section 56-5-4700. . . .’ [Section 56-5-760\(c\)](#).

*2 [Section 56-5-950\(a\)](#), [Code of Laws of South Carolina](#), 1976, states:

‘(t)he driver of any vehicle shall obey the instructions of any official traffic-control device, applicable thereto placed or held in accordance with the provisions of this chapter, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.’ [Emphasis added]

As to the question of the potential liability of drivers of authorized emergency vehicles in light of their exemption from compliance with certain traffic laws, it is also specifically provided by [Section 56-5-760\(d\)](#) that

‘(t)he provisions of this section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard 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.’ (See [Sections 56-5-2360](#) and [56-5-3260](#), [Code of Laws of South Carolina](#), as amended, for similar language as to the responsibility of drivers of authorized emergency vehicles to other drivers and pedestrians.

Therefore, as to the questions put forth in your letter, while a volunteer fireman driving his own vehicle in a situation so as to bring such vehicle within the definition of an authorized emergency vehicle is exempt from certain State traffic laws under certain circumstances, as to the question of liability, in each situation an examination would have to be made as to whether the volunteer fireman was driving in a manner which would show his regard for other individuals' safety as provided by the referenced statutory provisions. I am enclosing a previous opinion of this Office, 1976 Opinion of the Attorney General No. 4538, p. 404, which, while predating the referenced 1978 Act, provides a good discussion of the question of the potential liability of drivers of authorized emergency vehicles.

If there are any questions, do not hesitate to contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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