

1977 S.C. Op. Atty. Gen. 136 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-174, 1977 WL 24516

Office of the Attorney General

State of South Carolina

Opinion No. 77-174

June 6, 1977

\*1 Colonel Harold A. Jenkins  
Vice President for Business and Finance  
South Carolina State College  
Orangeburg, SC 29117

Dear Colonel Jenkins:

You have requested an opinion from this Office as to who would be liable, the State or the vehicle driver, in a tort suit brought as a result of negligent operation of a school vehicle by a school employee or student, where the school has opted not to purchase vehicle liability insurance. Mr. Paul Hawkins, Chief of Insurance for the Division of General Services, has assured me that State agencies are free not to purchase liability insurance for their motor vehicles if that is the agency's desire. However, Section 10-2623, Code of Laws of South Carolina, 1962, as amended, the South Carolina Governmental Motor Vehicle Tort Claims Act, makes the State liable for actual damages resulting from negligent operation of motor vehicles by State employees while in and about the official business of the State. 'State' as defined by Section 10-2622 includes 'the State of South Carolina or any office, department, agency, authority, commission, board, institution, hospital, college, university of other instrumentality thereof.' [Emphasis supplied.]

The total amount recoverable under the statute for any one accident is \$5,000 for property damage and \$10,000 for personal injury or death. From the reading of the statute, if the College decides not to carry liability insurance, the College would be liable for payment up to \$5,000 for property damage and \$10,000 for personal injury and individuals would be liable for any amount above those figures. As to whether or not the College chooses to carry liability insurance, is within the College's discretion. However I would point out to you that the Attorney General's Office does carry liability insurance for its vehicles and General Services carries for liability insurance for its vehicles.

Sincerely,

M. Elizabeth Crum  
Assistant Attorney General

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