

1978 WL 34653 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 13, 1978

***1 RE: South Carolina Automobile Reparation Reform Act of 1974**

Colonel W. J. Seaborn
S. C. State Highway Department
Traffic Law Enforcement-Patrol
Post Office Box 191
Columbia, South Carolina 29202

Dear Colonel Seaborn:

Pursuant to my conversations yesterday with Lieutenant A. T. Morris of your staff I am writing to apprise you of our views regarding patrol participation in the enforcement of the South Carolina Automobile Reparation Reform Act of 1974 (Act No. 1177 of 1974).

Although I am not familiar with the specific provisions of the aforementioned act, Lieutenant Morris informs me that the Law Enforcement Division of the Department provides personnel to assist the Department's Financial Responsibility Section in enforcing the provisions of the act. In particular, he advises that a list of violators is provided each month by the Financial Responsibility Section which identifies those persons in apparent violation. Persons whose names subsequently appear on that list are required, I am told, to surrender their vehicle registration tags upon demand. You have asked whether the patrolman who takes license tags from an individual, based upon information shown on the aforementioned list, is subject to any foreseeable liability for lack of apparent authority. In our view, he is not.

We believe the general rule to be that one who performs a purely ministerial function, as here, may rely upon representations from other officials that precedent legal steps have been completed and that his action is then appropriate. Assuming that all necessary precedent steps have been taken before your staff is notified to pick up an individual's tags, your officer would, in our view, need no additional show of authority to justify his action based thereon. To conclude otherwise conceivably would require each officer personally to confirm all precedent steps in each case, which of course would be unreasonable.

I trust the preceding discussion adequately answers your question, however, if you have any further questions in this regard, please feel free to contact me.

With best personal regards, I am
Very truly yours,

Richard P. Wilson
Assistant Attorney General

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