

1979 WL 43562 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 6, 1979

***1 Subject: Authorized emergency vehicle, deputy wildlife conservation officer**

It is the opinion of this office that a deputy wildlife conservation officer who operates a private vehicle which does not contain the audible and visual signals required by § 56-5-760 may not exceed the posted highway speed limits even while pursuing alleged violators of the fish and game laws.

Major P. L. Meek
Highway Patrol

QUESTION PRESENTED:

Whether a deputy wildlife conservation officer driving a private vehicle may exceed posted highway speed limits when pursuing alleged violators of the fish and game laws?

AUTHORITY:

[Code of Laws of South Carolina, § 56-5-170 \(Cum. Supp 1978\)](#)

[Code of Laws of South Carolina, § 56-5-760](#)

DISCUSSION:

You have requested an opinion regarding the authority of a deputy wildlife conservation officer operating his own private vehicle to exceed posted highway speed limits while pursuing alleged violators of the fish and game laws. [Code of Laws of South Carolina § 56-5-760](#) (Cum Supp) provides:

A. The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions of this section.

B. The driver of an authorized emergency vehicle may:

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 the speed limit as long as he does not endanger life or property.
4. Disregard regulations governing direction of movement or turning in specified directions.

C. The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of an audible signal meeting the requirements of § 56-5-4970 and visual signals meeting the requirements of § 56-5-4700

of this Chapter, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a blue light visible from in front of the vehicle.¹

D. The provision 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 regard for the safety of others.

This provision allows drivers of authorized emergency vehicles to exceed the maximum speed limit as long as they do not endanger life or property. Such vehicles, when so engaged, must make use of audible and visual signals. The intent of the General Assembly is that adequate warnings be given to motorists to ensure their safety.

[Code of Laws of South Carolina § 56-5-170 \(Cum. Supp. 1978\)](#) defines authorized emergency vehicles as:

*2 ‘Fire 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 . . .’

It is doubtful that a privately owned vehicle driven by a deputy wildlife conservation officer meets the above definition even if it is pursuing alleged violators of the fish and game laws. Even if it is assumed, *arguendo*, that such a vehicle could be classified as an authorized emergency vehicle, it is clear, that in this particular case, it does not fit within the exemption of [§ 56-5-760](#) so as to permit it to exceed maximum speed limits. The privately owned vehicle of the deputy wildlife conservation officer did not make use of either an audible signal or a visual signal while in pursuit of the alleged violators of the fish and game laws. Therefore it is the opinion of this office that a deputy wildlife conservation officer who operates his own private vehicle which does not contain the audible and visual signals required by [§ 56-5-760](#) may not exceed the posted highway speed limits even while pursuing alleged violators of the fish and game laws. The scope of this opinion is limited to deputy wildlife conservation officers who are not permanent public employees of the S. C. Wildlife and Marine Resource Department as contrasted to conservation officers who are permanently employed and paid by the Department.

CONCLUSION:

It is the opinion of this office that the deputy wildlife conservation officer who operates a private vehicle which does not contain the audible and visual signals required by [§ 56-5-760](#) may not exceed the posted highway speed limits even while pursuing alleged violators of the fish and game laws.

Richard D. Bybee
Assistant Attorney General

Footnotes

¹ [Code of Laws of South Carolina § 56-5-4700](#) was amended by Act No. 43 of the S. C. Acts and Joint Resolutions (1979).
1979 WL 43562 (S.C.A.G.)