

1975 S.C. Op. Atty. Gen. 159 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4083, 1975 WL 22379

Office of the Attorney General

State of South Carolina

Opinion No. 4083

AUGUST 18, 1975

*1 Absent a municipal ordinance to the contrary, police chiefs of incorporated municipalities may designate personal cars of police officers as police cars and authorized emergency vehicles provided such vehicles are equipped with the necessary warning devices, and are primarily used for law enforcement purposes.

TO: Police Department
Enforcement Purposes
Town of Prosperity, South Carolina

QUESTION PRESENTED:

May a personal car belonging to an individual police officer be used as an authorized emergency vehicle as defined by Section 46–216 of the South Carolina Code of Laws (1962), as amended by Act No. 74 of Acts of 1975?

AUTHORITIES CITED:

Section 46–216, Code of Laws of South Carolina (1962), as amended by Act No. 74 of the Acts of 1975.

Section 46–544.1, Code of Laws of South Carolina (1974 Cum. Supp.).

Section 46–292, Code of Laws of South Carolina (1962).

[Edge v. Town of Cayce, 187 S.C. 171, 197 S.E. 216 \(1938\).](#)

62 C.J.S. (Municipal Corporation) § 554 (1949).

DISCUSSION:

A municipal police chief is a public officer charged with the duty to preserve the peace and order of his town and with the enforcement of its laws. See, e.g. [Edge v. Town of Cayce, 187 S.C. 171, 197 S.E. 216 \(1938\)](#). He has those powers expressly granted by statute and ordinance and those incidental powers which by implication are necessary for the due and efficient exercise of his express powers. 62 C.J.S. (Municipal Corporations) § 554 (1949).

According to § 46–216 of the South Carolina Code of Laws, as amended, ‘authorized emergency vehicles’ are vehicles of the fire department (fire patrol), police vehicles and such ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the Department or the chief of police of an incorporated municipality. Absent a municipal ordinance to the contrary, the chief or police of an incorporated municipality may adopt reasonable rules and regulations for the designation of a patrolman’s personal vehicle as a ‘police vehicle’. He has express authority to designate such a ‘police vehicle’ as an ‘authorized emergency vehicle’ provided that the vehicle is used and equipped according to the specifications contained herein.

Section 46–292 of the 1962 Code requires that any vehicle operated as an ‘authorized emergency vehicle’ must sound a siren, exhaust whistle or bell as may be reasonably necessary when responding to an emergency call, when in pursuit of an actual or suspected violator of the law, or when responding to a fire alarm.

Section 46–544.1 provides that a police vehicle, when used as an authorized emergency vehicle, shall be equipped with dome-mounted, oscillating, rotating or flashing blue lights visible from a distance of five hundred feet. The statute further specifies that a vehicle so equipped should be one that is used primarily for law enforcement purposes. This statute further provides that ‘it should be unlawful for any person to use such dome-mounted flashing, oscillating or rotating blue light on any emergency vehicle except one used primarily for law enforcement purposes.’ (Emphasis added) Thus, a vehicle used primarily for family purposes could not legally be equipped with a blue light and is thus disqualified from being designated a ‘police vehicle.’ Further, since such a vehicle could not be designated a ‘police vehicle’ then by definition neither could it be an ‘authorized emergency vehicle’. Thus, as a practical matter only in unusual circumstances could a personal automobile of a police officer be designated a ‘police vehicle’ or an ‘authorized emergency vehicle’.

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