

1973 WL 26768 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 11, 1973

***1 Re: State Employees' Liability While Operating State-Owned Vehicles**

J. P. Neal, Jr.
Deputy Director for Administrative Services
S. C. Dept. of Youth Services
P. O. Box 3188
Columbia, South Carolina 29230

Dear Mr. Neal:

Thank you for your letter of June 5, 1973, which requests the status of State Employees' liability and responsibility relative to operating personal or State-owned vehicles in conjunction with the performance of State employment duties for the State.

The State, or the sovereign, is immune from suit in tort unless this immunity has been waived by legislative action. Section 10-2601, Code of Laws of South Carolina 1971 Cumulative Supplement does waive this immunity up to a maximum liability of \$15,000.00 for personal injury and property damage. While the State's liability is limited in this respect, a State employee can be sued individually with no maximum for his negligent acts while operating a State-owned vehicle, even though such is in the performance of assigned duties in behalf of the State.

This is a source of continuing and greatly increasing litigation, in that many complaints are being filed against the State itself and against the State employees in their individual capacities for negligent acts performed while driving State owned vehicles. This office upon written request will institute the defense of a State employee who is being sued as the result of an action performed by him in the course of his State employment. The State, however, is not liable for any money damages received against the employee in his individual capacity while being so sued. The employee is personally liable for any such judgment as may be rendered.

Many State employees, have successfully looked into the possibility and have invested in a rider to their personal liability insurance policy which includes coverage for non-owned automobiles. My personal experience in this regard has found that this insurance cost is minimal and I would advise that any State employee who intends to drive a State-owned vehicle would invest in such a policy.

A status of a State employee while performing assigned duties for the State and driving his personal automobile is liable just as if he were performing a personal task. The only distinction is that while performing State duties the State itself is liable as well as the individual, for his negligent acts.

If you would like to discuss this matter further, I will be available at your convenience.

Very truly yours,

Timothy G. Quinn
Senior Assistant Attorney General

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