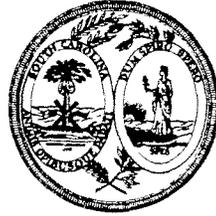


7017 February



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

November 17, 2000

Keith Lewis, Chief Deputy
Fairfield County Sheriff's Office
P. O. Box 387
Winnsboro, South Carolina 29180

**Re: You Letter Of October 5, 2000
Towing of Stolen Vehicles**

Dear Chief Deputy Lewis:

In your letter, you request an opinion from this Office "regarding a matter concerning wrecker fees on stolen vehicles." You state that "currently our Office is acting according to 56-5-5630(c) of the South Carolina Code of Laws. However, there seems to be some confusion with the wrecker drivers as they are under the assumption that even though the vehicle is stolen, once said vehicle is returned to the owner it then becomes the responsibility of the owner to pay the wrecker fee." Based on this, you specifically ask:

... who should pay the wrecker fee when a stolen vehicle is towed and impounded.

From the background you have provided, the confusion seems to occur when an abandoned car which is towed and impounded turns out to be stolen. As your are aware, South Carolina has specific statutes dealing with the removal, storage and disposition of abandoned motor vehicles. You have cited S.C. Code Ann. § 56-5-5630 in your letter, but §§ 56-5-5810, et seq. (Article 41) also deal with the disposition of abandoned cars.¹ In this case, the effect of either set of statutes will be the same.

¹ As of June 1996, it appears that amendments to §§ 56-5-5610 et seq. and §§ 56-5-5810 et seq. express an intention of the General Assembly that the latter sections apply to most situations involving abandoned cars.

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Section 56-5-5630(c) provides in pertinent part:

No owner of a vehicle which has been stolen and thereafter abandoned, as defined by this article, shall be liable for any charges or penalties imposed herein. A vehicle shall be deemed to be stolen when the owner notifies a police officer of this State and such report is accepted and carried on the records of the sheriff or chief of police as a stolen vehicle.

Similarly, § 56-5-5900 provides that:

No owner of a vehicle which has been stolen and thereafter abandoned shall be liable for any charges or penalties imposed herein. A vehicle shall be deemed to be stolen when the owner notifies a law enforcement officer of this or another state, and such report is accepted and carried on the records of the agency receiving the report as a stolen vehicle.

Further, Article 41 contains additional restrictions concerning its applications to the removal, storage and disposition of stolen vehicles. Section 56-5-5920 provides that:

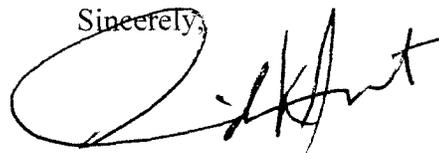
The provisions of this article shall not apply to vehicles housed or protected from the elements, those classified as antiques and registered pursuant to Sections 56-3-2210 and 56-3-2220, those exempted from registration pursuant to Section 56-3-120, those vehicles reported as stolen in accordance with Section 56-5-5900, unless any such vehicle presents an immediate safety or health hazard or constitutes a nuisance.

It seems clear from the language of the foregoing provisions that the South Carolina Legislature intended to spare the owners of stolen cars, who have been once victimized, the expense associated with the removal of the cars once they have been abandoned by the offending party. Accordingly, when an officer of any state, county or municipal law enforcement agency causes an abandoned vehicle to be removed according to the provision of §§ 56-5-5610 et seq. or 56-5-5810 et seq., and that vehicle has been stolen and properly reported as such, the owner would not be responsible for "any charges" associated with the removal and storage of the vehicle. This would apparently include the cost of towing the vehicle from the location to the place of impounding.

As to who is to bear the ultimate expense, obviously the criminal who stole the vehicle should be responsible for restitution, including such expenses. However, as a practical matter, the issue should be resolved between the entity requesting the towing and the towing company itself.

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This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General and not officially published in the manner of a formal opinion.

Sincerely,


David K. Avant
Assistant Attorney General

DKA/an