

1984 S.C. Op. Atty. Gen. 122 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-50, 1984 WL 159857

Office of the Attorney General

State of South Carolina

Opinion No. 84-50

May 2, 1984

\*1 The Honorable John R. Russell  
Member  
House of Representatives  
522-A Blatt Building  
Columbia, South Carolina 29211

Dear Representative Russell:

You have requested an opinion as to the applicability of the article covering compensation for crime victims ([Code of Laws of South Carolina, Section 16-3-1110 et seq.](#)) to victims involved in accidents with drunk drivers. It is our opinion that, provided all other eligibility requirements contained in these statutes are met, victims involved in accidents with drunk drivers would be eligible for Victim's Compensation.

[Sections 16-3-1110 et seq.](#) (Act No. 455 of 1982) provides for a program to compensate victims of crime. In Section 1 of the Act, the General Assembly has found that:

. . . many innocent persons suffer personal physical injury or death as a result of criminal acts . . . Such persons or their dependents may thereby suffer disability, incur financial hardships or become dependent upon public assistance. The General Assembly finds and determines that there is a need for financial assistance for such victims of crime. accordingly, it is the intent of the General Assembly that no right to financial assistance be created by this article, but that aid, care and support be provided for such victims of crime as granted by this article.

Act No. 455 reflects a remedial legislative purpose and, therefore, should be liberally construed in order to effectuate that purpose. [South Carolina Dept. of Mental Health v. Hanna](#), 270 S.C. 210, 241 S.E.2d 563 (1978).

Section 16-3-1170 provides as follows:

No award shall be made unless the Industrial Commissioner or the Deputy Director finds that (a) a crime was committed, (b) such crime directly resulted in physical injury to or death of the victim or intervenor and (c) police records show that such crime was promptly reported to the proper authorities . . .

The legal question thus presented is whether drunk driving or DUI constitutes the commission of a 'crime' within subsection (a) of the foregoing provision.

[Section 16-3-1110\(6\)](#) defines a 'crime' as an act which constitutes a crime as defined by state, federal or common law which results in physical injury or death to the victim.

The Section further provides that '[n]o act involving the operation of a motor vehicle . . . which results in injury or death shall constitute a crime for the purpose of this article unless the injury or death was recklessly or intentionally inflicted through the use of such vehicle . . .' And the same section states that '. . . [r]eckless use of a motor vehicle . . . shall include but not be limited to violations of Sections 56-5-2910, 56-5-2920, 56-5-2930 and 56-5-1210 . . .'

Section 56-5-2930, one of the sections specifically mentioned in [Section 16-3-1110\(6\)](#), provides, in part, that it is unlawful for any person under the influence of intoxicating liquors to drive any vehicle within this State. It is thus evident that driving under the influence of intoxicating beverages is one of the 'crimes' within the meaning of [Section 16-3-1110\(b\)](#). Accordingly, a person who sustains injuries as the result of actions by a person driving under the influence would be eligible for Victim's Compensation pursuant to [Section 16-3-1110 et seq.](#), provided that other eligibility requirements were met.<sup>1</sup>

\*2 It should be further noted that Section 16-3-1130(2) provides that Claims shall be investigated and determined, regardless of whether the alleged criminal has been apprehended, prosecuted or convicted of any crime based upon the same incident or whether the alleged criminal has been acquitted or found not guilty of the crime in question.

#### CONCLUSION

Provided that all other eligibility requirements are met, victims involved in accidents with drunk drivers are eligible for Victim's Compensation. Such eligibility does not depend upon whether the alleged criminal has been apprehended, prosecuted or convicted of any crime based upon the same incident or whether the alleged criminal has been acquitted or found not guilty of the crime in question.

If we can be of further assistance, do not hesitate to contact us. With kindest regards, I am  
Very truly yours,

T. Travis Medlock  
Attorney General

#### Footnotes

- <sup>1</sup> Subsections (b) and (c) of Section 16-3-1170 would, of course, still have to be met. And we note that Section 16-3-1180 does place certain limitations on the amount of an award. [See also](#), Section 16-3-1190.  
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