

1978 WL 35140 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 29, 1978

*1 The Honorable J. P. Strom
Chief
South Carolina Law Enforcement Division
Post Office Box 21398
Columbia, South Carolina 29221

Dear Chief Strom:

You have requested an opinion as to the procedure by which certain vehicles assigned to SLED might be exempted from the identification requirement for State vehicles. It is my opinion that all vehicles assigned to SLED must bear the appropriate markings except for those vehicles exempted by the State Budget and Control Board, after consulting with you. The State Budget and Control Board must make the final determination, however, whether a vehicle is to be exempted from the identification requirement.

The management of State-owned motor vehicles is governed by the provisions of an Act which is now included as Part II, Section 24 of the 1978-79 General Appropriations Act. Pursuant to this Act, there is established within the Budget and Control Board a Division of Motor Vehicle Management headed by a Director designated as 'State Fleet Manager.' The Manager is appointed by and reports directly to the Budget and Control Board. The Board is directed to develop a comprehensive fleet management program for State-owned motor vehicles and it is my understanding that this has not yet been established.

The Act similarly creates a Motor Vehicle Management Council to 'supervise the detailed operations' of the Division of Motor Vehicle Management. Among its other duties is that of serving in an advisory capacity to the Board by:

- a. recommending a suitable person to act as State Fleet Manager;
- b. making recommendations to the Board concerning methods and procedures for the management of State-owned motor vehicles; and
- c. acting as a hearing board for the purpose of hearing and ruling on all disputes and grievances lodged against the implementation of regulations promulgated by the Board.

The specific duties of the Manager are not set forth in the Act but, in my opinion, while appointed by and reporting directly to the Board, the Manager serves as the individual to carry out the intent of the law in accordance with its provisions and in accordance with regulations promulgated by the Board. In so doing, the Manager is subject to the supervision of the Council, as well as being required to report directly to the Board.

The Act provides detailed duties upon the Board with regard to the management of State-owned motor vehicles and specifically grants to the Board the exclusive authority to grant exemptions from the requirements of identification of vehicles.

Specifically granted exemption from the Act are:

'vehicles supplied to law enforcement officers when, in the opinion of the Board, after consulting with the Chief of the State Law Enforcement Division, those officers are actually involved in undercover law enforcement work to the extent that the actual investigation of criminal cases or the investigator's physical well-being would be jeopardized if they were identified.'

*2 In my opinion, application for exemption of motor vehicles supplied to SLED can only be granted by the Board and application for such exemption should be submitted to the Board for its consideration. It will be appropriate for you as Chief of SLED to submit in such application for exemption the reasons for the need for such exemption. The decision of whether to grant such exemption is vested exclusively in the Board.

Very truly yours,

Daniel R. McLeod
Attorney General

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