

1975 WL 28831 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
July 17, 1975

***1 Re: Use of Personal Cars of Individual Police Officers as Emergency Vehicles Under 1975 Act 74 to Amend Section 46-216 of the 1962 Code**

Mr. Jones

QUESTIONS PRESENTED:

(1) May a personal car belonging to an individual police officer be used as an authorized emergency vehicle under 1975 Act 74?

(2) May a police officer carry a dome light in his personal car under Section 46-544.1, 1962 South Carolina Code?

DISCUSSION:

POINT 1:

A personal car belonging to an individual municipal police officer may be used as an authorized emergency vehicle under Act 74 only if the chief of police has the authority to so designate it.

Act 74 of 1975 to amend Section 46-216 of the 1962 South Carolina Code, as amended, provides as follows: 'authorized emergency vehicles or 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.'

Within the provision of this Act, to be an 'authorized emergency vehicle' the personal car of an individual police officer would have to be a 'police vehicle' within the definition of that term or it would have to be designated as such by the chief of police of the municipality if he has that authority.

Cars owned by individual police officers do not appear to come within the term 'police vehicles' because under Act 74 and other Sections of the Code specific mention is made of instances when personal cars may be used as emergency vehicles. [If fire department and police vehicles included personal cars used for official duty, such specific mention should not be necessary.] The second paragraph of Section 46-216 provides for both '. . . vehicles of rescue squads and of individual members of rescue squads'. Section 46-216.4 provides for '. . . vehicles of individual members of . . . the sheriff's department in Lexington County.' Since Section 46-246 of the 1962 Code provides that 'every officer authorized to direct or regulate traffic or to make arrests for violation of vehicular and traffic laws is a police officer'; therefore, it would seem that a sheriff's officer is a police officer and that a sheriff's vehicle is a police vehicle. If special provision needs to be made for the sheriff, it would seem that special provision would need to be made for the city policeman or special authorization would need to be given for police use by the chief of police.

Despite difficulties over the term 'police vehicles', provision in Act 74 for the designation of ' . . . such ambulances and emergency vehicles of municipal departments or public service corporations . . . by the Department or the chief of police of an incorporated municipality . . .' possibly could permit the authorization of the use of a police officer's personal car as a 'police vehicle'. Although Opinion No. 2256 of the Attorney General, April 6, 1967, found that Section 46-216 of the 1962 Code did not apply to personal cars of volunteer firemen in Hartsville, the chief of police of that town probably did not have the authority to designate a personal car for use by the fire department, whereas he might be able to do so for the police department. The only problem with finding such authority for the chief of police appears to be in determining whether the mentioning of police vehicles in the second line of Act 74 excludes any other police vehicles under 'emergency vehicles' in line three; therefore, unless the term 'police vehicles' is the only provision that may be made for police cars, it would appear that the chief of police could designate a policeman's personal car as a police vehicle when used on official business. Such authority for the police chief appears to be intended by the legislature since he is the only public officer outside of the Highway Department with the power to designate cars as emergency vehicles.

POINT 2:

*2 A police officer may carry a dome light in his personal car only if that car is an authorized emergency vehicle.

Section 46-544.1 of the 1962 South Carolina Code 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'. If 'use' means to carry on the dashboard where visible, a police officer could not carry a blue light on the dashboard of his personal car unless such a car was used as an emergency vehicle.

If the chief of police of a municipality may designate the personal car of an individual police officer as an 'authorized emergency vehicle' then the car may be used as such, and only in that case may the officer carry a blue light on his dashboard.

Emory Smith

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