



ALAN WILSON
ATTORNEY GENERAL

November 20, 2018

Mr. M. Kyle Minick
Executive Director
South Carolina State Firefighters' Association
PO Box 211725
Columbia, SC 29221

Dear Mr. Minick:

You seek our opinion "as it relates to requiring fire and rescue agencies to register with the Department of Motor Vehicles, their government owned all terrain vehicles (ATV) to travel on public roads to and from emergency incident, training and other official duties." By way of background, you state the following:

To date the general rule in this State concerning vehicle registration is that all motor vehicles "operated or moved upon a highway" in South Carolina must be registered (Section 56-3-110). An ATV is a motor vehicle as described in Section 56-1-10(20) and may need to operate on a "highway" which is a publicly maintained road as defined in Section 56-1-10(6) to carry out various functions of its response to an incident within a fire department's response area. Therefore, following the Statutes as adopted by South Carolina, an ATV operated on public roads must be registered with the Department of Motor Vehicles unless it is subject to an exemption from registration or unless another more specific statute allows it to be operated without registration.

It is our understanding an exemption in South Carolina Statute that could be applied to ATVs, Section 56-3-120(6)(c), which allows for an exemption from the registration requirement for firefighting vehicles that are "specialized support vehicles that specifically transport equipment utilized for rescue operations, hazardous materials response, wildfire emergencies, breathing air refill support, and incident command." The South Carolina State Firefighters' Association feels it is plausible that an ATV is equipped and utilized in such a way as to fall within this exemption. Therefore, if a public fire department uses an ATV equipped in such a manner as to satisfy the requirement in Section 56-3-120(6)(c), then the ATV may travel on public roads without registration with the Department of Motor Vehicles.

To have clarity in this issue we seek your office's opinion in the exemption of requiring of first responder agencies to register with the Department of Motor Vehicles, government owned all-terrain vehicles (ATV) to travel on public roads to respond to, and after an emergency incident.

It is our opinion that an ATV, properly equipped and utilized qualifies as a “specialized support vehicle[] that specifically transports equipment utilized for rescue operations, hazardous materials response, wild fire emergencies, breathing air refill support, and incident command” and is thus exempt from the requirements registration with DMV, pursuant to § 56-3-120(6)(c).

Law/Analysis

Regarding the registration of motor vehicles, we have previously advised with respect to the interpretation of § 56-3-120 the following:

Section 56-3-110 of the South Carolina Code (2006) requires every motor vehicle operated on a highway in this State to be registered and licensed. Section 56-3-120 of the South Carolina Code (2006) provides certain exemptions to the licensing and registration requirements. Among the vehicles exempt from registration pursuant to section 56-3-120 are “any implement of husbandry, including knuckleboom loader mounted on a trailer or straight truck, whether of a type otherwise subject to registration and license which only incidentally is operated or moved upon a highway....” S.C. Code Ann. § 56-3-120(2) (emphasis added). You question what is meant by the term “incidentally.”

In our review of chapter 3 of title 56, we do not find incidentally defined among the statutes. Thus, we must employ the rules of statutory construction to determine what is meant by this term. As our Supreme Court recently explained:

The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature. All rules of statutory construction are subservient to the maxim that legislative intent must prevail if it can be reasonably discovered in the language used. A statute's language must be construed in light of the intended purpose of the statute. Whenever possible, legislative intent should be found in the plain language of the statute itself.

State v. Pittman, 373 S.C. 527, 561, 647 S.E.2d 144,161 (2007) (citations omitted). “Words must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation.” Sloan v. South Carolina Bd. of Physical Therapy Examiners, 370 S.C. 452, 469, 636 S.E.2d 598, 607 (2006). .

Op. S.C. Att’y Gen., 2007 WL 4284622 (November 27, 2007). Your focus is on the exemption found at § 56-3-120(6)(c), relating to firefighting vehicles.

As we have previously stated, DMV generally has found that with respect to “all-terrain vehicles (ATV’s),” the “manufacturer specifically states [these] are for off-road use only.” The question, here, however, is not ATV’s for ordinary use, but whether ATV’s which are specially equipped, fall within the firefighting vehicle exemption set forth in § 56-3-120(6)(c), i.e. that

they may be deemed “specialized support vehicles that specifically transport equipment utilized for rescue operation, hazardous materials response, wildfire emergencies, breathing air refill support, and incident command.” We conclude that they may be.

As you note in your letter, § 56-3-120(6) provides an exemption for firefighting. Such provision states:

The following vehicles are exempt from registration and licensing under this chapter:...

(6) firefighting vehicles that are publicly owned by the state or a county, municipality or special purpose district as follows:

- (a) motorized firefighting vehicles that carry a pump or water tank in excess of three hundred gallons;
- (b) motorized firefighting vehicles containing a hydraulically operated ladder; and
- (c) specialized support vehicles that specifically transport equipment utilized for rescue operations, hazardous material response, wildfire emergencies, breathing air refill support, and incident command.

The only possible exemption with respect to an ATV is part (c) of the subsection.

The New York Attorney General, in an opinion, addressed the use of ATV’s as “emergency vehicles” to assist law enforcement and public safety agencies such as fire departments. There, the Attorney General stated the following:

[i]n 2000, the Legislature exempted snowmobiles and all-terrain vehicles operated as emergency vehicles from existing restrictions on where such vehicles generally could be operated. . . . The reason for this enactment was to “assist police and public safety agencies in fulfilling their law enforcement and safety missions by providing that when snowmobiles or ATV’s are properly operating emergency vehicles they would be exempt from certain use restrictions.”

2006 N.Y. Op. Att’y Gen., 2006 WL 1050189 (March 31, 2006).

Moreover, firefighters readily attest that ATV’s are of tremendous value in combatting fires. As one authority has noted, “[a]s fire departments across the country are increasingly tasked with added responsibilities, we must look at new and possibly unorthodox ways of providing these new services. One way to do this is through the use of the ATV.” See “The Use of All Terrain Vehicles (ATV’s) in Hazardous Materials Response,” Firehouse, September 5, 2003. As this article further notes, an ATV can assist the firefighter in a number of specific ways, including transportation of firefighters into the hot zone; serving as a rescue vehicle of rapid intervention; mitigation of a hazardous materials incident sooner and more efficiently; ferrying “tools, equipment or personnel into or out of the hot zone, or victims out of the hot zone more efficiently, etc. Thus, as the article concludes, “ATV’s can be a valuable tool in emergency

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services response. With practice, training and a little imagination, it can be a welcome tool in any fire department's arsenal."

The exemption found at § 56-3-120(6)(c) appears to readily include an ATV in its use by firefighters. Certainly, an ATV can be deemed a "specialized support vehicle that specifically transports equipment utilized for rescue operations. . . ." And, as noted, an ATV may be employed by a fire department for hazardous material response" or even "wildfire emergencies, breathing air fill support and incident command." As the authorities referenced above well document, an ATV may easily satisfy all of the purposes enunciated in § 56-3-120(6)(c). Undoubtedly, part 6(c) may well have been drafted with the ATV in mind. Thus, we believe § 56-3-120(6)(c) easily encompasses the use by a fire department of an ATV as part of its emergency firefighting arsenal.

Conclusion

It is our opinion that a properly equipped and utilized ATV qualifies for the exemption from licensure and registration pursuant to § 56-3-120(6)(c). It is well recognized that ATV's can be a "valuable tool in emergency services response" and "can be a welcome tool in any fire department's arsenal." Obviously, the ATV must be so utilized by a fire department as an emergency services vehicle, but if so, such vehicle meets the requirements of § 56-3-120(6)(c).

Sincerely,



Robert D. Cook
Solicitor General