



ALAN WILSON  
ATTORNEY GENERAL

January 28, 2020

The Honorable Jeffrey P. Bloom  
Calhoun County Magistrate  
St. Matthews Magistrate Office  
P.O. Box 191  
St. Matthews, South Carolina 29135

Dear Judge Bloom:

We received your letter requesting an opinion of this Office regarding the interpretation of section 56-5-1520(A) of the South Carolina Code (2018). Specifically, you ask whether “is it a required *element* of ‘Too Fast for Conditions’ to make contact or collision with another *moving* object?”

#### Law/Analysis

Section 56-5-1520(A) provides:

A person shall not drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Speed must be so controlled to avoid colliding with a person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and the duty of a person to use care.

We understand your question whether this statute must be read as requiring contact or a collision with another moving object in order for a person to be charged with driving too fast for conditions. To answer your question we turn to the rules of statutory construction.

The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature. Charleston County Sch. Dist. v. State Budget and Control Bd., 313 S.C. 1, 437 S.E.2d 6 (1993). Under the plain meaning rule, it is not the court’s place to change the meaning of a clear and unambiguous statute. In re Vincent J., 333 S.C. 233, 509 S.E.2d 261 (1998) (citations omitted). Where the statute’s language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning. Id. at 233,

509 S.E.2d at 262 (citing Paschal v. State Election Comm'n, 317 S.C. 434, 454 S.E.2d 890 (1995)). “What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will. Therefore, the courts are bound to give effect to the expressed intent of the legislature.” Norman J. Singer, Sutherland Statutory Construction § 46.03 at 94 (5th ed. 1992).

Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000).

Section 56-5-1520 is entitled “General rules as to maximum speed limits; lower speeds may be required.” From the title alone, we understand this provision mandates drivers reduce their speed to below that of the posted limit under certain circumstances. Further, in Burgess Brogdon, Inc. v. Lake, 288 S.C. 16, 19, 339 S.E.2d 507, 509 (1986), the South Carolina Supreme Court described section 56-5-1520 as requiring “the driver of every vehicle to drive at an appropriately reduced speed when hazards exist with respect to weather or highway conditions.” Section 56-5-1520(A), as cited above, specifically requires lower speeds when actual or potential hazards exist. This provision does not contain language requiring the driver to actually collide with another vehicle or object. In fact, by including the word “potential” in addition to “actual” hazards, we believe the Legislature is conveying this provision applies to not only hazards that are physical there, but hazards that could come into play under certain conditions. Therefore, we do not find the plain language of section 56-5-1520(A) imposes such requirements. In addition, we do not find any requirement that the hazard be a moving object.

Moreover, we do not believe such a requirement was the intent of the Legislature. As our Supreme Court explained in CFRE, LLC v. Greenville County Assessor, 395 S.C. 67, 74, 716 S.E.2d 877, 881 (2011), statutes

“must be read as a whole and sections which are part of the same general statutory law must be construed together and each one given effect.” S.C. State Ports Auth. v. Jasper County, 368 S.C. 388, 398, 629 S.E.2d 624, 629 (2006). We therefore should not concentrate on isolated phrases within the statute. Id. Instead, we read the statute as a whole and in a manner consonant and in harmony with its purpose. State v. Sweat, 379 S.C. 367, 376, 665 S.E.2d 645, 650 (Ct.App.2008), aff'd, 386 S.C. 339, 688 S.E.2d 569 (2010).

Section 56-5-1520(F) states:

The driver of a vehicle shall drive, consistent with the requirements of subsection (A), at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, approaching a hillcrest, when traveling upon any narrow bridge, narrow or winding roadway, and when special hazard exists

with respect to pedestrians or other traffic or by reason of weather or highway conditions.

S.C. Code Ann. § 56-5-1520 (emphasis added). This provision requires the driver to reduce speed when approaching circumstances that create a higher potential for danger or collision, but makes no reference to actually making contact with another vehicle or object. The Legislature specified these requirements were “consistent with the requirements of subsection (A).” Meaning, these requirements are consistent with those laid out in subsection (A). Not only does subsection (F) not address actual collisions, but indicates speeds should be reduced in order to avoid such collisions at intersections, railway crossing, and the like. As such, when subsection (A) is read in concert with subsection (F), we are further convinced the Legislature did not intend to require an actual collision in order for a driver to violate section 56-5-1520(A).

As you indicated in your letter, we issued an opinion in 2014 pertaining to the interpretation of section 56-5-1520(A). Op. Att’y Gen., 2014 WL 2757537 (S.C.A.G. Jun. 3, 2014). In that opinion, we were asked whether a driver could be charged under section 56-5-1520(A) for exceeding the speed posted on the small yellow sign located directly underneath a warning sign when no collision occurred. Id. In answering the question affirmatively, we interpreted section 56-5-1520(A) as providing “motorists with a general duty of care to observe ‘special hazards’ that may exist on the roadway and drive at speeds to avoid collisions.” Id. We compared subsection (A) with subsection (F) and determined:

When read in connection with S.C. Code Ann. § 56-5-1520(A), it is our opinion that a court would find that traffic citations related to S.C. Code Ann. § 56-5-1520(F) (2006) apply to a driver’s duty to adjust speeds, on his or her own initiative, to that which is reasonable and prudent under the conditions and to avoid collision with a person, vehicle, or other conveyance on or entering the highway. Where S.C. Code Ann. § 56-5-1520(A) (2006) relates to unknown special hazards, often caused by other motorists, it is our opinion that § 56-5-1520(F) encompasses conditions that are anticipated to occur, such as highway or weather conditions, that always necessitate a reduction in speed.

Id. Ultimately, we concluded “a court would find exceeding speeds posted on a warning sign, without the existence of a collision, is a direct violation of S.C. Code Ann. § 56-5-1520(E)(2006) and related traffic violations should be cited under such authority opposed to a “too fast for conditions” citation.” Id. However, our interpretation of section 56-5-1520(A) remains the same. We continue to interpret section 56-5-1250(A) as requiring drivers to travel at reasonably prudent speeds given the actual and potential hazards they may encounter regardless of whether the failure to obey this requirement results in a collision. It is our opinion that the collision does not make the driver chargeable under 56-5-1250(A). Rather, the driver’s conduct prior to the collision, if there is one, triggers application of section 56-5-1250(A).

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**Conclusion**

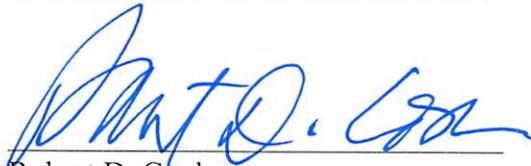
In section 56-5-1520(A), the Legislature did not include a requirement that a collision or accident occur in order for a driver to violate this provision. To the contrary, given the plain language used in section 56-5-1520(A) and reading this provision in concert with section 56-5-1520 as a whole, we gather the Legislature intended for this provision to be followed to avoid collisions and accidents. Moreover, this interpretation is consistent with that provided in our 2014 opinion. Accordingly, it is our opinion that a driver can violate section 56-5-1520(A) regardless of whether that violation results in collision or accident.

Sincerely,



Cydney Milling  
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Solicitor General