



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

Curt T. Schneider
Attorney General

June 30, 1976

ATTORNEY GENERAL OPINION NO. 76- 194

Mr. Robert M. Corbett
Attorney
Department of Health and Environment
Building 740 - Forbes AFB
Topeka, Kansas

Re: Public Health--Emergency Medical Services--Ambulances

Synopsis: Under K.S.A. 1975 Supp. 65-4320(c) any vehicle in use as of July 1, 1975, as an emergency ambulance vehicle is exempt from the vehicle and equipment requirement adopted by the Secretary of Health and Environment. Any such vehicle does not lose its exemption by a transfer of ownership to a different operator after July 1, 1975.

* * *

Dear Mr. Corbett:

By your letter of June 15, 1976, you have requested our opinion in regard to K.S.A. 1975 Supp. 65-4320(c). You state that the Emergency Medical Services Office has taken the position that the exemption in K.S.A. 1975 Supp. 65-4320 was directed towards ambulance services and that vehicles which have changed ownership since July, 1975, would therefore, not be exempt. The position taken by the emergency medical services office fails for several reasons. K.S.A. 1975 Supp. 65-4320 states:

"(a) The secretary of health and environment, with the advice and consent of the council, shall have the power under this act to adopt rules and regulations pursuant to article 4 of chapter 77 of the Kansas Statutes Annotated,

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except that no such rules and regulations shall be adopted without the approval of the council. Any rules and regulations adopted hereunder shall include a classification of the different types of ambulance services and also shall include requirements as to equipment necessary for ambulances and rescue vehicles, qualifications and training of attendants, records and equipment to be maintained by operators and attendants and such other matters as the secretary of health and environment shall deem necessary to implement and administer the provisions of this act.

(b) No rule and regulation shall be adopted by the secretary of health and environment which requires: (i) An ambulance service to obtain a permit at a time earlier than that specified in K.S.A. 1975 Supp. 65-4317; or (ii) an ambulance service to staff its vehicles with one or more attendants holding a certificate prior to the time such ambulance service is required by K.S.A. 1975 Supp. 65-4317 to obtain a permit.

(c) Vehicles now in use as emergency ambulances may continue to be used for this purpose."

Without question the emergency medical services office may adopt rules and regulations which pertain to the safety and welfare of Kansas citizens and which would be a proper exercise of the police power of the state. *Moore v. The State Highway Commission of Kansas*, 191 Kan. 624; *State of Kansas v. George T. Finley*, 198 Kan. 585; *Smith v. State Highway Commission*, 185 Kan. 445. Such regulations must not be arbitrary, capricious, or unreasonable either in substance or application, and must be within the authority conferred. *State ex rel. Londerholm v. Columbia Pictures Inc.*, 197 Kan. 448. *Community Antenna Television of Wichita, Inc. v. City of Wichita*, 205 Kan. 537.

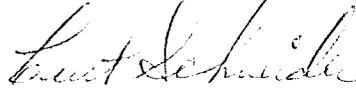
As enacted in 1975, the Secretary of Health and Environment was empowered to adopt regulations pertaining to equipment and standards for ambulance and rescue vehicles. No person or municipality is authorized to operate an ambulance service without a valid permit issued under the act. In order to obtain a permit, the applicant must satisfy the head of the Emergency Medical Services office that the proposed ambulance service will be properly staffed and equipped. The legislature contemplated that ambulances and rescue vehicles in use prior to July 1, 1975, might not satisfy the requirements adopted by the Secretary, and accordingly provided that "[v]ehicles now in

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use as emergency ambulances may continue to be used for this purpose." The clause was obviously designed to permit emergency ambulance vehicles which were in use as of July 1, 1976, to continue in service notwithstanding more stringent vehicle and equipment requirements adopted thereafter pursuant to the act. By its express and unambiguous terms, the exemption extends to any emergency ambulance vehicle which was in service on July 1, 1975.

Accordingly, it is my opinion that a change in ownership of a vehicle from one ambulance service or operator to another operator does not affect the scope of the exemption, or the status of the vehicle itself as falling within the class of vehicles which the legislature manifestly intended to include within the exemption.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:RRS:JRM:kj