



STATE OF KANSAS

## Office of the Attorney General

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Curt T. Schneider  
Attorney General

August 25, 1976

ATTORNEY GENERAL OPINION NO. 76-268

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

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

Synopsis: Rules and regulations of the Secretary of Health and Environment, adopted pursuant to K.S.A. 1975 Supp. 65-4320(a), apply to all ambulance vehicles, including those in service on July 1, 1975, except when compliance requires structural or other like major alterations of such vehicles.

\* \* \*

Dear Mr. Corbett:

In 1975, the legislature provided for the licensure of ambulance services. See ch. 335, L. 1975. Under that act, the Secretary of Health and Environment is empowered to adopt rules and regulations. K.S.A. 1975 Supp. 65-4320(a) states thus in pertinent part:

"Any rules and regulations adopted hereunder shall include a classification of the different types of ambulance services and also 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

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to implement and administer the provisions of this act."

A limited grandfather clause was provided in subsection (c) of this section: "Vehicles now in use [July 1, 1975] as emergency ambulances may continue to be used for this purpose."

In Opinion No. 76-194, I concluded that an ambulance which was in use prior to July 1, 1975, and which changed ownership subsequent thereto did not lose its status as a vehicle permitted to continue in service as an ambulance under the grandfather provision.

The question which is raised here is whether ambulance vehicles in use prior to July 1, 1975, are exempt from all regulations of the Secretary, including those prescribing requirements for equipment, such as oxygen, medical supplies, and the like. Concerning the exemption, I stated thus in the cited opinion:

"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 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."

The legislature obviously intended that the rules and regulations adopted by the Secretary should not be interpreted to prevent the continued use of ambulance vehicles then in service. To the extent that any such rule or regulation would so operate, any vehicle affected thereby was entitled to be exempted. However, it is absurd, in my judgment, to suggest that the rules and regulations have no application whatever to ambulance vehicles in service on the effective date of the act, July 1, 1975.

The rules and regulations of the Secretary apply to *all* ambulance vehicles, including those in service prior to July 1, 1975 (except, of course, those exempt by K.S.A. 1975 Supp. 65-4327), except when the vehicle cannot be adapted to comply with those regulations and continue in service. Obviously, some measure of reasonableness may be required in many instances. However, so far as concerns equipment and supplies which must be carried in the vehicle, for example, compliance is ordinarily readily achieved, except, of course, where the

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equipment is such that the configuration of the vehicle itself could not accommodate the required equipment. Surely, it is the extraordinary vehicle which cannot accommodate oxygen and similar supplies required by the rules and regulations of the Secretary.

In short, in my opinion, the exemption of K.S.A. 1975 Supp. 65-4320(c), does not apply to ambulance vehicles in service on July 1, 1975, when compliance does not require structural or other like major alterations of the vehicle.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj

cc: The Honorable John W. Crofoot  
State Senator  
Cedar Point, Kansas 66843