

OPINION NO. 81-088**Syllabus:**

An EMT-A, ADV EMT-A, paramedic, or driver operating a private motor vehicle in responding to an emergency call for backup assistance and either driving to the facility where the backup emergency vehicle is maintained or driving directly to the emergency scene is not immune from civil liability for the negligent operation of such private motor vehicle.

To: Anthony L. Gretlick, Williams County Pros. Atty., Bryan, Ohio
By: William J. Brown, Attorney General, December 16, 1981

I have before me your request for my opinion on several issues pertaining to the civil liability of EMT-A's, ADV EMT-A's or paramedics resulting from the negligent operation of private motor vehicles. In particular, you present two questions:

- 1) Whether an EMT or driver responding to an emergency call for back-up assistance and driving his own private vehicle to the facility where the back-up emergency vehicle is maintained is immune from civil liability for the negligent operation of such private motor vehicle.
- 2) Whether an EMT responding to a call for back-up assistance and driving directly to the emergency scene in his private vehicle is immune from civil liability for the negligent operation of such private motor vehicle.

Although you have indicated that an informal response would adequately respond to your needs, I have elected to respond by means of a formal opinion, since your questions are of general applicability.

R.C. 307.05 authorizes a board of county commissioners to provide ambulance service or emergency medical service. R.C. 307.05 reads in part as follows:

A board of county commissioners may provide ambulance service

or emergency medical service, or may enter into a contract with one or more counties, townships, municipal corporations, nonprofit corporations, or private ambulance owners, regardless of whether such counties, townships, municipal corporations, nonprofit corporations, or private ambulance owners are located within or without the state, in order to obtain ambulance service, to obtain additional ambulance service in times of emergency, or to obtain emergency medical services.

"Emergency medical service" is defined by R.C. 4731.82(E) as:

a public or private organization using EMT-As, ADV EMT-As, or paramedics, or a combination of EMT-As, ADV EMT-As, and paramedics, to provide emergency medical care to victims of serious illness or injury prior to the victims receiving professional medical care or hospitalization.

Initially, it is clear that R.C. 4731.90(D) provides immunity from civil liability resulting from the negligent operation of ambulances by EMT-A's, ADV EMT-A's, paramedics, or operators. R.C. 4731.90(D) reads:

No EMT-/, ADV EMT-A, paramedic, or other operator, who holds a valid operator's or chauffeur's license issued pursuant to Chapter 4507. of the Revised Code and who is employed by an emergency medical service, is liable in civil damages for injury, death, or loss to persons or property that is caused by the EMT-A's, ADV EMT-A's, paramedic's or operator's operation of an ambulance while responding to or completing a call for emergency medical care or treatment, unless the operation constitutes willful or wanton misconduct or does not comply with the precautions of section 4511.03 of the Revised Code. No emergency medical service is liable in civil damages for any injury, death, or loss to persons or property that is caused by the operation of an ambulance by its employee or agency, if this division grants the employee or agency immunity from civil liability for the injury, death, or loss. (Emphasis added.)

In order that an EMT-A, ADV EMT-A, paramedic, or other operator invoke the immunity afforded by R.C. 4731.90(D), that driver must be: (1) operating an "ambulance" as defined by R.C. 4731.82(D), (2) responding to or completing a call for emergency medical care or treatment, (3) operating the motor vehicle absent willful or wanton misconduct, and (4) operating in compliance with the precautions of R.C. 4511.03.¹

"Ambulance" is defined by R.C. 4731.82(D) as:

any motor vehicle that is used, or is intended to be used, for the purpose of responding to emergency life-threatening situations, providing emergency medical care, and transporting emergency patients and administering emergency care procedures to such patients before, during, or after such transportation, and includes both basic and intensive care ambulances as defined and classified by the emergency medical services board pursuant to section 4731.93 of the Revised Code.

¹R.C. 4511.03 requires that the driver of an emergency vehicle or public safety vehicle, while responding to an emergency call, must slow down "as necessary for safety to traffic" upon approaching a red light, stop signal, or stop sign, but such vehicles are permitted to "proceed cautiously past such red or stop sign or signal with due regard for the safety of all persons using the street or highway."

The language of the statute clearly indicates that the General Assembly intended to grant immunity from civil liability only to those EMT-A's, ADV EMT-A's, paramedics, or operators operating an ambulance as defined by R.C. 4731.82(D). In order that a motor vehicle constitute an ambulance, it is necessary that the motor vehicle be used or intended to be used for the purpose of (1) responding to emergency life-threatening situations, (2) providing emergency medical care, and (3) transporting emergency medical patients and administering emergency care procedures to such patients before, during, or after such transportation. Since the statutory language defining "ambulance" is phrased in the conjunctive, each of the above three criteria must be met before a motor vehicle can be said to constitute an "ambulance" for purposes of R.C. 4731.82(D). While a private motor vehicle that is being driven by an EMT or driver to a facility or to the emergency scene may be "responding to or completing a call for emergency medical care or treatment," such private vehicle would not be equipped to provide or administer emergency medical care or transport recipients of that care. It is a well-settled principle of statutory construction that when a statute is phrased in such plain and unambiguous terms, there is no occasion to resort to construction or interpretation of the statute, and the words will be given their plain and ordinary meanings. State ex rel. Stanton v. Zangerle, 117 Ohio St. 436, 159 N.E. 823 (1927).

Since all four criteria of R.C. 4731.90(D) must be met in order to claim the immunity afforded by that section, and since private motor vehicles clearly do not fall within the definition of "ambulance," as per R.C. 4731.82(D), I am constrained to conclude that an EMT or driver operating a private motor vehicle in responding to an emergency call for backup assistance and either driving to the facility where the backup emergency vehicle is maintained or driving directly to the emergency scene is not immune from civil liability under R.C. 4731.90(D) for the negligent operation of such private motor vehicle.

Since I know of no theory or statute other than R.C. 4731.90(D) under which such EMT-A's, ADV EMT-A's, paramedics, or other operators would be immune from suit or civil liability resulting from the negligent operation of a private motor vehicle, it is my opinion, and you are advised, that an EMT-A, ADV EMT-A, paramedic, or driver operating a private motor vehicle in responding to an emergency call for backup assistance and either driving to the facility where the backup emergency vehicle is maintained or driving directly to the emergency scene is not immune from civil liability for the negligent operation of such private motor vehicle.