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1. VEHICLE—CLASSIFIED AS EMERGENCY VEHICLE—MUST BE EQUIPPED WITH SIREN, WHISTLE OR BELL—TYPE APPROVED BY DIRECTOR OR HIGHWAYS—SECTION 6307-93 G. C.
2. VOLUNTEER FIREMAN—NOT ENTITLED TO PRIVILEGE GRANTED TO DRIVER OF EMERGENCY VEHICLE UNLESS PROVISIONS OF SECTION 6307-93 G. C. ARE OBSERVED.

3. VOLUNTEER FIREMEN—NOT P E A C E OFFICERS—DO NOT POSSESS POLICE POWERS.

SYLLABUS :

1. A vehicle must be equipped with a siren, whistle or bell of a type approved by the Director of Highways as provided in Section 6307-93, General Code, before such vehicle can be classified as an emergency vehicle.

2. Unless a vehicle is equipped with a siren, whistle or bell in accordance with Section 6307-93, General Code, a volunteer fireman is not entitled to the privileges granted to a driver of an emergency vehicle.

3. Volunteer firemen are not peace officers and do not possess police powers.

Columbus, Ohio, September 17, 1947

Hon. Murray D. Shaffer, Director, Department of Highways
Columbus, Ohio

Dear Sir :

I have your request for my opinion as follows :

“Section 6307-2 of the General Code defines ‘emergency vehicle.’ Among other things, said section provides that motor vehicles when used by volunteer firemen responding to emergency calls in the fire department service ‘when identified as shall be required by the director,’ shall be emergency vehicles.

Section 6307-4 provides that emergency vehicles may proceed cautiously past a red or stop sign, etc., and Section 6307-24 provides that the prima facie speed limitations set forth in Section 6307-21 shall not apply to emergency vehicles when responding to emergency calls when the drivers thereof sound audible signals by bell, sirens, or exhaust whistles.

Section 6307-44 refers to the yielding of the right of way by other vehicles upon the approach of an emergency vehicle, etc., and Section 6307-90 relates to lights of various kinds and the intensity thereof and contains an exception with reference to emergency vehicles. Section 6307-93, among other things, provides that every emergency vehicle shall be equipped with a siren, whistle, or bell, etc.

In connection with the director’s duties under the foregoing sections, the policy of this department in respect to volunteer firemen has been to require the chiefs of all such groups to submit

to the Highway Patrol the name, type of motor vehicle and license number of each vehicle used by volunteer firemen under their control. After such information has been received by the Highway Patrol, a windshield sticker for each vehicle belonging to such volunteer firemen is issued.

There have been conflicting interpretations of the sections above mentioned and much confusion as to the respective rights and duties of volunteer firemen, and the State Highway Patrol is desirous that the following questions be answered by an official opinion:

1. Under what circumstances may a volunteer fireman operate his car which bears a sticker, properly issued, when the same is not equipped with a siren, whistle or bell?
2. What type, if any, of emergency sound equipment is required on the car of a volunteer fireman?
3. What, if any, police powers do volunteer firemen have in connection with their duties?

In some instances, such firemen have re-routed traffic on state highways and attempted to exercise other police powers."

An "emergency vehicle" is defined by Section 6307-2, General Code, in the following manner:

"'Emergency vehicle.' Fire department, police and state highway patrol vehicles, vehicles of salvage corporations, organized under sections 9873 to 9879, both inclusive, of the General Code, and emergency vehicles of municipal departments or public utility corporations, when identified as such as required by law, the director, or local authorities, and motor vehicles when commandeered by a police officer, ambulances and motor vehicles when used by volunteer firemen responding to emergency calls in the fire department service when identified as shall be required by the director."

Section 6307-93, General Code, states additional qualifications necessary to constitute a vehicle an emergency vehicle. The pertinent part of said section is as follows:

"(b) * * * Every emergency vehicle shall be equipped with a siren, whistle, or bell, capable of emitting sound audible under normal conditions from a distance of not less than five hundred feet and of a type approved by the director, but such equipment shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which said latter events the driver

of such vehicle shall sound such equipment when necessary to warn pedestrians and other drivers of the approach thereof."

In addition, Section 6307-24, General Code, outlines the conditions whereby a vehicle classified as an emergency vehicle may operate. That section follows:

"The prima facie speed limitations set forth in Section 21, General Code (6307-21) shall not apply to emergency vehicles when responding to emergency calls and the drivers thereof sound audible signals by bell, siren, or exhaust whistle. This provision shall not relieve the driver of an emergency vehicle from the duty to drive with due regard for the safety of all persons using the street or highway."

Without the necessity of lengthy discussion, it follows from the above that an emergency vehicle is one of those vehicles enumerated in that portion of Section 6307-2, General Code, quoted supra, which is equipped with a siren, whistle or bell as specified in Section 6307-93, General Code, which siren, whistle or bell must be sounded when the vehicle is in use as an emergency vehicle. The fact that a sticker or placard is customarily issued by the Highway Patrol to identify an emergency vehicle is of no bearing upon your questions. The qualifications to be met are those imposed by the foregoing statutes and unless those qualifications are met, a vehicle may not properly be classed or operated as an emergency vehicle.

The foregoing statutes and discussion lead me to the following conclusions on your first two questions. A vehicle must be equipped with a siren, whistle or bell of a type approved by the Director of Highways in accordance with Section 6307-93, General Code, before such vehicle can be classified as an emergency vehicle and that unless such vehicle is so equipped, a volunteer fireman is not entitled to the privileges granted to the driver of an emergency vehicle.

Your other question, which is whether or not volunteer firemen may exercise police powers, involves a consideration of those provisions of Ohio law delegating police powers to the various peace officers.

Section 13432-1, General Code, enumerates generally those officers whose duty it is to enforce the various laws of the state and ordinances of municipalities. Volunteer firemen are not enumerated. Section 11833-2, General Code, denotes the Highway Patrol as the agency to enforce the

laws of the state with respect to motor vehicles and related laws upon the highways of the state. Volunteer firemen, under that statute, do not share in that authority. Other statutes confer the authority of peace officers in a full or restricted measure upon other officers, but in none of the statutes is any authority to act as a peace officer given to volunteer firemen. Under these circumstances, only one conclusion is possible and that is that volunteer firemen have no authority to act as peace officers.

I do not mean to be understood as saying that volunteer firemen or others not peace officers may not take measures to assist motorists and others by warning them of the hazards and obstructions present at the scene of a fire, especially in the absence of the Highway Patrol or other law enforcing agency. However, this does not require the authority of a peace officer.

Specifically stating my conclusions, you are advised that in my opinion :

1. A vehicle must be equipped with a siren, whistle or bell of a type approved by the Director of Highways as provided in Section 6307-93, General Code, before such vehicle can be classified as an emergency vehicle.
2. Unless a vehicle is equipped with a siren, whistle or bell in accordance with Section 6307-93, General Code, a volunteer fireman is not entitled to the privileges granted to a driver of an emergency vehicle.
3. Volunteer firemen are not peace officers and do not possess police powers.

Respectfully,

Hugh S. Jenkins,
Attorney General.