



The State University and Community College System of Tennessee

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MEMORANDUM

TO: CHIEF BUSINESS AFFAIRS OFFICERS

FROM: Mary E. Walker
General Counsel

RE: Memo on Liability of State Employees Resulting from Auto Accidents
While in the Performance of State Duties

DATE: August 16, 1989

This office has received several questions related to the use of vehicles by employees while performing work related duties and their liability in the event of an accident. The questions have dealt with out-of-state travel and the use of rental cars. This office recently received a clarification on the subject that we had sought from the Attorney General's Office. Therefore; the purpose of this memo is to provide you with that information.

Since January 1, 1985, the Tennessee Legislature has provided protection for state employees from personal liability that results from the employee's negligent acts and omission while performing state duties. The legislation mandates that the state shall assume the liability of its employees for, among other things, their negligent operation or maintenance of any motor vehicle, regardless of whether the vehicle is owned by the state, the individual, or is an authorized rental car, provided the accident occurred while the employee was performing state duties.

The legislative protection is absolute for the in-state acts of employees that are within the scope of his/her employment unless the act or omission of the employee was willful or malicious, constituted a criminal act or was committed for personal gain. If, however, the act or omission of the employee in relation to the vehicle and the accident occurs outside the scope of his/her employment, the legislation would not protect the employee from personal liability for damage or injury.

When the employee is traveling outside the state of Tennessee, the extent of the employee's liability is then governed by the laws of the state

where the accident occurs. Immunity under Tennessee law would not protect the employee unless the legal action is brought under the Tennessee Claims Commission Act.

Even if the lawsuit is filed under the laws of the state where the accident occurred, the employee is still afforded substantial protection to help offset a personal financial loss resulting from his/her negligent operation of a motor vehicle, provided that the employee meet certain criteria. Specifically, the Board of Claims may pay all reasonable compensation for legal counsel, court costs and necessary expenses connected with the legal action. The employee may be reimbursed for actual damages, costs, attorneys fees and any judgment or settlement up to a limit of \$300,000 per claimant and a total of \$1,000,000 per accident. If the judgment or settlement exceeds the set limits, the Board of Claims may pay any amount in excess of the limit which bears a reasonable relationship to the liability of the employee or the damage or injury caused.

State employees may also receive compensation for the loss, damage or destruction of certain personal property occurring in the course of employment. A motor vehicle is included under this protection if the employee is being reimbursed for mileage or if he/she is authorized to use a rental vehicle paid for by the state.

In addition to the criteria that will negate protection for the in-state acts of the employee, reimbursement by the Board of Claims may also be denied if the employee was grossly negligent or if the employee or his/her counsel leave not made reasonable efforts to defend against the claim.

It should be noted that, where the employee has the benefit of other insurance coverage, the statute limits the compensation by the state to the extent the employee is not compensated by his/her insurer.

/MS

cc: Jim Vaden
Clay Harkleroad