

OFFICIAL OPINION NO. 68-21, Motor vehicle accident occurring on private property is not covered by statutes relative to reporting motor vehicle accidents. SDC 1960 Supp. 44.0330-1; 44.0331; 44.03A05 through 44.03A09

STATE OF SOUTH DAKOTA  
OFFICE OF  
THE ATTORNEY GENERAL

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L. J. Hertz  
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Armour, South Dakota 57313

OFFICIAL OPINION NO. 68-21

**Motor vehicle accident occurring on private property is not covered by statutes relative to reporting motor vehicle accidents. SDC 1960 Supp. 44.0330-1; 44.0331; 44.03A05 through 44.03A09**

Dear Mr. Hertz:

You have requested my official opinion in answer to the following question submitted.

The factual situation presented is as follows:

"A, while operating a motor vehicle upon a large private parking lot collides with a manure spreader, the property of B. Such collision causes but slight damage to the manure spreader, but results in over one hundred dollars damage to the motor vehicle driven by A."

The question submitted with such factual situation is as follows:

"In view of SDC 1960 Supp. 44.0330-1 and 44.0331, does A have the duty to report such accident to B and also to the nearest available peace officer of the county where such accident occurred?"

The answer to such question depends upon whether or not the statutes cited, together with analagous statutes (SDC 1960 Supp. 44.03A05 through 44.03A09 apply to vehicular accidents which occur upon private property and not on public highways as the same are

defined in Title 44 of the South Dakota Code of 1939 and acts amendatory thereof. It should be noticed that If such statutes apply to accidents upon private property, a violation of the same can result in the suspension of the driving license by the Commissioner of Motor Vehicles (SDC 1960 Supp. 44.03A09) together with criminal penalties. (SDC 44.9923 as amended by Ch. 133, Laws of 1964; SDC 1960 Supp. 44.9929 and 44.9932.)

To determine whether or not these statutes apply to an accident upon private property, in view of the general language used in such statutes, must rest upon the legislative intent as expressed by the Legislature in its requirement that certain accidents be reported to the owner of the vehicle struck and to peace officers.

An examination of Title 44 of the South Dakota Code of 1939, and acts amendatory thereof, lead me to the conclusion that these statutes collectively were enacted to regulate the use of motor vehicles upon public highways and not upon private property. The motor vehicle must be licensed to be used on the public highways. The "rules of the road" apply to the operation of motor vehicles upon the public highways. If a driver's license is suspended, the operation of a motor vehicle upon the public highways of the state-as distinguished from private property-is determined to be criminal.

As the licensing, regulation and such matters in regard to motor vehicles is directed as to uses of the public highways, it must legitimately follow that the Legislature intended that designated reports as to certain accidents refers to such accidents that occur on the public highways, and such direction to report, subject to a suspension of a driver's license, together with criminal punishment does not apply to an accident occurring on private property.

The answer to your question is NO. The statutes you have quoted, together with other statutory regulations as to reports of accidents do not apply to accidents occurring on private property.

Respectfully submitted,

Frank L. Farrar  
Attorney General