



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

April 3, 2024

Roy Noble Lee, Jr., Esq.
Attorney, Scott County Board of Supervisors
Post Office Box 370
Forest, Mississippi 39074

Re: County's Ability to Recover Expenses Under Section 17-25-11

Dear Mr. Lee:

The Office of the Attorney General has received your request for an official opinion.

Question Presented

Does Mississippi Code Annotated Section 17-25-11 allow the county to recover expenses incurred—gasoline, wear and tear, etc.—when a certified law enforcement officer utilizes his or her official vehicle while working off-duty private security?

Brief Response

Although Section 17-25-11 does not directly address reimbursement outside of indemnity, an employing jurisdiction may make reimbursement of incurred expenses due to gasoline, wear and tear, etc., a condition of approval for a certified law enforcement officer to utilize his or her official vehicle for an off-duty private security job.

Applicable Law and Discussion

Section 17-25-11 governs when and how a certified law enforcement officer employed by a county, municipality, or the Department of Public Safety may use his or her official uniform, firearm, or vehicle issued by his or her employing jurisdiction while working off-duty private security. As acknowledged in your request, the statute addresses indemnity for the employing jurisdiction from any action taken against it because of the officer utilizing his or her official uniform, weapon, or vehicle. Miss. Code Ann. § 17-25-11(3)(b)(i). This includes indemnity for “any damage to the official vehicle.” *Id.*

Roy Noble Lee, Jr., Esq.

April 3, 2024

Page 2

You ask if, aside from this indemnification provision, there is any portion of the statute that would allow the county to recover expenses —gasoline, wear and tear, etc.— when an official vehicle is used in the capacity contemplated by Section 17-25-11. Although Section 17-25-11 does not directly address reimbursement outside of indemnity, Subsection (1) requires the approval of the employing jurisdiction for a certified officer to use his or her official uniform, firearm, or vehicle issued by his or her employing jurisdiction while working off-duty private security:

Certified law enforcement officers or certified part-time law enforcement officers, as defined in Section 45-6-3, who are employed by a county, municipality or the Department of Public Safety may wear the official uniform and may utilize the official firearm and the official vehicle issued by the employing jurisdiction while in the performance of private security services in off-duty hours. The governing authority of a municipality must approve of such use of the uniform, official weapon and vehicle by municipal law enforcement officers by act spread upon the minutes of such board and approved by the chief executive. The sheriff of a county must approve such use of the uniform, official weapon and vehicle by deputy sheriffs. The Commissioner of the Department of Public Safety must approve such use of the uniform, official weapon and vehicle by officers of the department. Approval shall be on an employee-by-employee basis and not by general order. Any proceedings regarding application or approval and the minutes regarding same shall be a public record.

Miss. Code Ann. § 17-25-11(1).

It is thus the opinion of this office that an employing jurisdiction may make reimbursement of incurred expenses due to gasoline, wear and tear, etc., a condition of approval for a certified law enforcement officer to utilize his or her official vehicle for an off-duty private security job.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Maggie Kate Bobo*

Maggie Kate Bobo
Special Assistant Attorney General