



COMMONWEALTH of VIRGINIA

Office of the Attorney General

Kenneth T. Cuccinelli, II
Attorney General

August 10, 2010

900 East Main Street
Richmond, Virginia 23219
804-786-2071
FAX 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

The Honorable Frank M. Ruff, Jr.
Member, Senate of Virginia
P. O. Box 332
Clarksville, Virginia 23927

Dear Senator Ruff:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

Issue Presented

You ask whether firefighters who are employees of the Commonwealth qualify for “line of duty” coverage pursuant to the *Code of Virginia*.

Response

It is my opinion that firefighters who are employees of the Commonwealth are not covered under the Line of Duty Act, § 9.1-400 *et seq.*, unless they are members of a fire company or department or rescue squad that has been recognized by an ordinance or a resolution of the governing body of a Virginia county, city, or town as an integral part of the official safety program of such county, city, or town.

Applicable Law and Discussion

The Line of Duty Act (“Act”) provides certain benefits to eligible law enforcement and other public safety personnel who are injured or killed in the line of duty.¹ The list of persons accorded benefits under the Act is specifically defined. Code § 9.1-400(B) provides unambiguously that to be covered under the Act, a firefighter must be a member of a fire company or department or a rescue squad that has been recognized by an ordinance or a resolution of the governing body of a county, city, or town as an integral part of the official safety program of such county, city, or town. Section 9.1-400 reads in part:

“Deceased person” means any individual whose death occurs on or after April 8, 1972, as the direct or proximate result of the performance of his duty ... as a ... *member of any fire company or department or rescue squad that has been recognized by an ordinance or a resolution of the governing body of any county, city or town of the Commonwealth as an integral part of the official safety program of such county, city or town...* [Emphasis added.]

¹ See VA. CODE ANN §§ 9.1-400 through 9.1-408 (2006 & Supp. 2010).

The Honorable Frank. M. Ruff, Jr.
August 10, 2010
Page 2

Under generally accepted principles of statutory construction, the mention of one thing in a statute implies the exclusion of another.² Section 9.1-400 does not mention firefighters employed by the Commonwealth in the list of those eligible for benefits under the Act. Rather, the statute only mentions members of a fire company or department or rescue squad properly recognized by a governing body of a county, city, or town as being an integral part of its official safety program. Therefore, the exclusion of firefighters employed by the Commonwealth is presumed to be intentional.³

Conclusion

Accordingly, it is my opinion that firefighters employed by the Commonwealth are not covered by the Line of Duty Act unless they are members of a fire company or department or rescue squad that has been recognized by an ordinance or a resolution of the governing body of a county, city, or town as an integral part of the official safety program of such county, city, or town.

With kindest regards, I am

Very truly yours,



Kenneth T. Cuccinelli, II
Attorney General

² See *Smith Mountain Lake Yacht Club v. Ramaker*, 261 Va. 240, 246, 542 S.E.2d 392, 395 (2001). See also Norman J. Singer and J.D. Shamblé Singer, 2A SUTHERLAND STATUTORY CONSTRUCTION § 47.23 (7th ed. 2007); 17 MICHIE'S JURISPRUDENCE, Statutes § 45 (2006).

³ The maxim of statutory construction *expressio unius est exclusio alterius* is applicable here. Where a statute speaks in specific terms, an implication arises that omitted terms were not intended to be included within the scope of the statute. See, e.g., *Turner v. Wexler*, 244 Va. 124, 127, 418 S.E.2d 886, 887 (1992).