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The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER  
ATTORNEY GENERAL

August 1, 2003

Sergeant Peter Farrell  
Central Investigations  
Charleston Police Department  
180 Lockwood Boulevard  
Charleston, SC 29403

Dear Sergeant Farrell:

You have requested an advisory opinion from this Office regarding the classification of a conviction for possession of a stolen vehicle under S.C. Code Ann. §16-21-80. You have asked if such a conviction qualifies as a prior property offense for enhancement purposes under Section 16-1-57 of the Code.

**Law/Analysis**

It is a cardinal rule that the primary purpose in interpreting statutes is to ascertain the intent of the General Assembly. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). A statute must receive a practical, reasonable, and fair interpretation consonant with the purpose, design and policy of the lawmakers. Caughman v. Cola. Y.M.C.A., 212 S.C. 337, 47 S.E.2d 788 (1948). Words must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1990).

Based on these general principles of statutory interpretation, it is my opinion that a prior conviction pursuant to Section 16-21-80 of the Code would qualify as a property offense for enhancement purposes under Section 16-1-57. Section 16-1-57 says that:

A person convicted of an offense for which the term of imprisonment is contingent upon the value of the property involved must, upon a conviction for a third or subsequent offense, be punished as proscribed for a Class F felony.

Section 16-21-80 of the Code criminalizes the receiving, possessing, concealing, selling, or disposing of a stolen vehicle in South Carolina. It says:

A person not entitled to the possession of a vehicle who receives, possesses, conceals, sells, or disposes of it, knowing it to be stolen or converted under circumstances constituting a crime, is guilty of a:

Sergeant Farrell  
Page 2  
August 1, 2003

(1) misdemeanor triable in magistrate's court if the value of the vehicle is one thousand dollars or less. Upon conviction, the person must be fined, imprisoned, or both, not more than is permitted by law without presentment or indictment by the grand jury;

(2) felony and upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the vehicle is more than one thousand dollars but less than five thousand dollars;

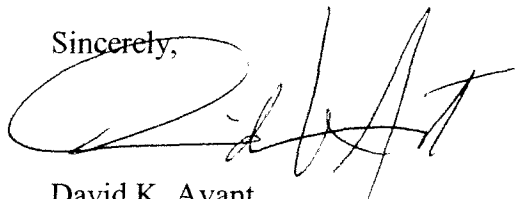
(3) felony and upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the vehicle is five thousand dollars or more.

It appears that the crime of possession of a stolen vehicle falls under the definition of an "offense for which the term of imprisonment is contingent upon the value of the property involved." The punishment section for the property crime of shoplifting, in S.C. Code Ann. §16-13-110(B), is practically identical to the punishment section for possession of a stolen vehicle. In State v. Lewis, 325 S.C. 324, 478 S.E.2d 696 (App. 1996), the Court of Appeals held that shoplifting qualifies as an offense for which the term of imprisonment is contingent upon the value of the property involved. Therefore, under Section 16-1-57, and a third or subsequent conviction for such an offense should be classified as Class E felony, punishable up to ten years in prison. See S.C. Code Ann. §16-1-20(A)(5). It is the opinion of this Office that, pursuant to the plain language of the statute, the courts would similarly classify a prior conviction for possession of a stolen vehicle as an enhancing offense under Section 16-1-57.

#### Conclusion

Based on the foregoing, it is my opinion that a prior conviction pursuant to Section 16-21-80 of the Code would qualify as a property offense for enhancement purposes under Section 16-1-57.

Sincerely,

A handwritten signature in black ink, appearing to read "D. K. Avant", written over the word "Sincerely,".

David K. Avant  
Assistant Attorney General