



HENRY McMASTER  
ATTORNEY GENERAL

February 20, 2009

The Honorable C. Ryan Johnson  
Magistrate, Greenwood County  
528 Monument Street, Room 100  
Greenwood, South Carolina 29646

Dear Magistrate Johnson:

In a letter to this office you questioned the proper penalty and jurisdiction for the offense of a titled owner operating or allowing the operation of an uninsured vehicle as set forth in S.C. Code Ann. §56-10-520. Such provision states:

A person who owns an uninsured motor vehicle:

- (1) licensed in the State; or
- (2) subject to registration in the State;

who operates or permits the operation of that motor vehicle without first having paid to the director the uninsured motor vehicle fee required by Section 56-10-510, to be disposed of as provided by Section 56-10-550, is guilty of a misdemeanor.

A person who is the operator of an uninsured motor vehicle and not the titled owner, who knows that the required fee has not been paid to the director, is guilty of a misdemeanor and, upon conviction, must: for a first offense be fined no less than one hundred dollars and not more than two hundred dollars or imprisoned for thirty days; for a second offense be fined two hundred dollars or imprisoned for thirty days, or both; or for a third or subsequent offense must be imprisoned for not less than forty-five days nor more than six months. Only convictions which occurred within five years, including and immediately preceding the date of the last conviction, constitute prior convictions within the meaning of this section.

The director or his designee, having reason to believe that a motor vehicle is being operated or has been operated on any specified date, may require the owner of such motor vehicle to submit the certificate of insurance provided for by Section 56-10-510. The refusal or neglect of the owner who has not, before the date of operation, paid the uninsured motor vehicle fee required by Section 56-10-510 as to such motor vehicle, to furnish such certificate must be prima facie evidence that the

motor vehicle was an uninsured motor vehicle at the time of such operation. A person who presents or causes to be presented to the director a false certificate that a motor vehicle is an insured motor vehicle or false evidence that a motor vehicle sought to be registered is an insured motor vehicle, is guilty of a misdemeanor and, upon conviction, must be fined pursuant to Section 56-10-260.

As stated in your letter,

[i]t appears that the statute creates two offenses: one for title owners and the other for non-title owners. The first paragraph makes it unlawful for a title owner to operate or allow the operation of an uninsured vehicle. The second paragraph makes it unlawful for a non-title owner to knowingly operate an uninsured vehicle....It is clear from the statute that a non-title owner who operates an uninsured vehicle is to be fined \$100-\$200 or imprisoned for 30 days for a first offense. However, there is no penalty provision provided for a title owner who operates an uninsured vehicle. The penalty provision in the statute is found only in the second paragraph and is directly linked to the non-title owner. Therefore, the penalty provision would not apply to the first paragraph relating to a title owner.

Consistent with your letter, there is no specific appropriate penalty provision that I can locate for a titled owner who operates an uninsured vehicle in either Chapter 10 or anywhere else in Title 56. I would note that S.C. Code Ann. § 56-5-6190 provides a general penalty for a violation of a provision set forth in Chapter 5 of Title 56 where there is no specific penalty established. However, as you pointed out, apparently there is no similar general penalty provision for violations set forth in Chapter 10 of Title 56 which includes Section 56-10-520.

As indicated, Section 56-10-520 provides that a titled owner who operates an uninsured motor vehicle is guilty of a misdemeanor. However, no penalty is provided. Generally, pursuant to S.C. Code Ann. § 17-25-30, “[i]n cases of legal conviction when no punishment is provided by statute the court shall award such sentence as is conformable to the common usage and practice in this State, according to the nature of the offense, and not repugnant to the Constitution.” In the opinion of this office, such provision would provide the possible penalty for a titled owner who operates an uninsured motor vehicle. Consistent with such provision, if a conviction is obtained for a violation of Section 56-10-250 as to a titled owner who operates an uninsured motor vehicle, inasmuch as no statutory penalty is provided, a prison term of up to ten years can be imposed. See: State v. Fogle, 256 S.C. 149, 181 S.E.2d 483 (1971); State v. Hill, 254 S.C. 321, 175 S.E.2d 227 (1970).

As to your separate question regarding whether a magistrate would have jurisdiction over a case involving a titled owner who operates an uninsured motor vehicle, pursuant to S.C. Code Ann. § 22-3-550, magistrates have jurisdiction to preside over cases where the maximum penalty of imprisonment does not exceed thirty days. Inasmuch as the penalty for such referenced offense

The Honorable C. Ryan Johnson  
Page 3  
February 20, 2009

exceeds such statutory limit, a magistrate would not have jurisdiction over the offense of a titled owner who operates an uninsured motor vehicle arising under Section 56-10-250.

With kind regards, I am,

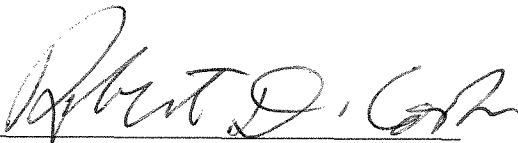
Very truly yours,

Henry McMaster  
Attorney General



By: Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



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Deputy Attorney General