



HENRY McMASTER
ATTORNEY GENERAL

December 2, 2008

Bradley T. Farrar, Esquire
Deputy Richland County Attorney
P. O. Box 192
Columbia, South Carolina 29202

Dear Mr. Farrar:

In a letter to this office you referenced the provisions of S.C. Code Ann. § 56-7-80 which provide for a county or municipal ordinance summons to be used for the enforcement of county and municipal ordinances. Such statute further provides that

[u]pon adoption of the ordinance summons, any county or municipal law enforcement officer or code enforcement officer is authorized to use an ordinance summons...The uniform ordinance summons may not be used to perform a custodial arrest. No county or municipal ordinance which regulates the use of motor vehicles on the public roads of this State may be enforced using an ordinance summons. (emphasis added).

You have referenced Section 12-19 of the Richland County Code of Ordinances, Chapter 12, Garbage, Trash and Refuse, Transportation of Refuse which provides that

(a) It shall be unlawful for any person to haul, convey or cause to be conveyed any refuse upon or along the public streets and roadways except when the material transported is adequately secured in such a manner as to prevent it from falling, leaking or being blown from transporting vehicles. The owner or driver of the offending vehicle shall be personally responsible for any violation of this section.

As stated in your letter, “[t]he ordinance pertains to the manner in which the load transported has been secured, and does not have anything to do with how safely or unsafely a motorist operates the vehicle carrying the load.” You have questioned whether or not the county refuse ordinance provisions set forth above can be enforced by use of a uniform ordinance summons.

When interpreting the meaning of a statute, certain basic principles must be observed. The cardinal rule of statutory interpretation is to ascertain and give effect to legislative intent. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Typically, legislative intent is determined by applying

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the words used by the General Assembly in their usual and ordinary significance. Martin v. Nationwide Mutual Insurance Company, 256 S.C. 577, 183 S.E.2d 451 (1971). Resort to subtle or forced construction for the purpose of limiting or expanding the operation of a statute should not be undertaken. Walton v. Walton, 282 S.C. 165, 318 S.E.2d 14 (1984). Courts must apply the clear and unambiguous terms of a statute according to their literal meaning and statutes should be given a reasonable and practical construction which is consistent with the policy and purpose expressed therein. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991); Jones v. South Carolina State Highway Department, 247 S.C. 132, 146 S.E.2d 166 (1966).

This office in prior opinions has dealt with the question regarding the use of a uniform ordinance summons in association with municipal ordinance violations dealing with traffic offenses. We have concluded that consistent with Section 56-7-80, a county ordinance summons could not be utilized in such circumstances and a uniform traffic ticket must instead be used. See, e.g., Op. dated November 14, 2006. As stated by you, the Richland County ordinance regulating the transportation of refuse deals with the manner in which the load transported has been secured, and is irrelevant to how safely or unsafely a motorist operates the vehicle itself which carries the load. As a result, in the opinion of this office, the Richland County ordinance provision is not a traffic offense and does not regulate the use of a motor vehicle on the public roads of this State. Therefore, a violation of such transportation of refuse ordinance provision could be cited using a uniform ordinance summons.

If there are any questions, please advise.

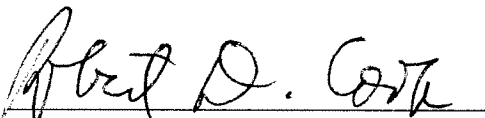
Very truly yours,

Henry McMaster
Attorney General



By: Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General