

7117 Liberty



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON  
ATTORNEY GENERAL

July 6, 2001

Lieutenant John M. Hall  
City of Travelers Rest Police Department  
6711 State Park Road  
Travelers Rest, South Carolina 29690

Re: Your Letter of March 15, 2001  
Driving Under Suspension/Without a License

Dear Lieutenant Hall:

In your above referenced letter, you request assistance from this Office concerning the appropriate traffic charges when out of state drivers are involved. Specifically, you state as follows:

There have been some questions recently from several Officers in our Department about the Driving Under Suspension Statute 56-1-460. One question in particular is about an out of State Drivers License that is suspended, can we charge that driver under our statute of DUS? There have also been some questions about the NRVC and what role it plays in these particular circumstances. We normally charge the driver with No South Carolina Drivers License. If the driver does not have a current South Carolina address, can we still charge that driver with No SC DL if they are just passing through?

Pursuant to S.C. Code Ann. §56-1-460, a person is guilty of driving under suspension in South Carolina when that person "drives a motor vehicle on any public highway of this State when his license to drive is canceled, suspended, or revoked." This statute contains no provision limiting it to drivers who have had their South Carolina licenses canceled, suspended, or revoked. This Office has previously opined and reaffirmed that "if a resident of this State or of any other state has had his driver's license canceled, suspended, or revoked he would be in violation of Section 56-1-460 if that individual drives a motor vehicle in this State during the period his license is canceled, suspended or revoked." See OPS. ATTY. GEN. (Dated October 12, 1987 & August 7, 1996). Accordingly, you may charge an out of state driver with a suspended license from his home state with Driving Under Suspension pursuant to §56-1-460.

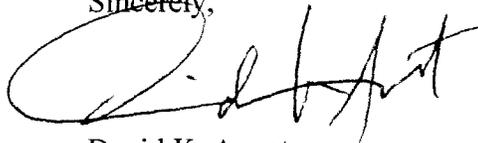
*Request Letter*

Lieutenant John M. Hall  
Page 2  
July 6, 2001

As for out of state drivers who are properly licensed in their home state, but do not have their license with them while driving through South Carolina, the appropriate charge would be based on S.C. Code Ann. §§56-1-20, 30 & 440. Section 56-1-20 provides that "No person, except those expressly exempted in this article shall drive any motor vehicle upon a highway in this State unless such person has a valid motor vehicle driver's license issued to him under the provisions [of the S.C. Code]." An out of state driver is exempt from the requirements of §56-1-20 when he "has in his immediate possession a valid operator's or chauffeur's license issued to him in his home state..." Therefore, an out of state driver passing through the state without his drivers license in possession would be subject to the penalties provided for in §56-1-440 which states that "[a]ny person who drives a motor vehicle on any public highway of this State without a driver's license in violation of Section 56-1-20 is guilty of a misdemeanor..."<sup>1 2</sup>

This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General and not officially published in the manner of a formal opinion.

Sincerely,



David K. Avant  
Assistant Attorney General

---

<sup>1</sup> Section 56-1-440 is also the appropriate section under which to charge when a person's license has been suspended pursuant to a controlled substance conviction, See S.C. Code Ann. §56-1-745, and when a person has never been licensed by this or any other state. See OP. ATTY. GEN. (Dated May 18, 1972).

<sup>2</sup> Section 56-1-440 also provides that "a charge of driving a motor vehicle without a driver's license must be dismissed if the person provides proof of being a licensed driver at the time of the violation to the court within seven days of being charged with a violation of this provision."