

7166 Liberty



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON  
ATTORNEY GENERAL

October 30, 2001

The Honorable Robert W. Davis  
Municipal Judge, City of Lancaster  
P.O. Box 1149  
Lancaster, South Carolina 29721

**Re: S.C. Code Ann. §56-1-30(6)**

Dear Judge Davis:

In a letter to this Office, you have asked for "an opinion regarding 56-1-30(6) of the S.C. Code of Laws." By way of background, you indicate that:

This section refers to a reciprocal arrangement with foreign jurisdictions that would allow certain foreign citizens to drive in S. C. with a foreign license. It also references "... a foreign jurisdiction whose licensing procedure is at least as strict as South Carolina's. . . ." The Lancaster Municipal Court frequently has drivers who have Mexican driver's licenses.

Given this background, you specifically ask if persons with Mexican driver's licenses "qualify to drive in this state for the five-year period indicated in this statute with only a driver's license issued in Mexico."

S.C. Code Ann. §56-1-30 provides a list of persons who are exempt from the provisions of Section 56-1-20 which require a person to have a valid driver's license if they "... drive any motor vehicle upon a highway in this State ...."

Section 56-1-30(6) provides as follows:

A citizen of a foreign jurisdiction whose licensing procedure is at least as strict as South Carolina's, as determined by the department, who is at least eighteen years of age, who is employed in South Carolina, and who has a valid driver's license issued by that jurisdiction may drive in this State for five years if the foreign jurisdiction provides a reciprocal arrangement for South Carolina residents. The provisions of this item also shall apply to the dependents of foreign nationals who qualify under this section.

*Request Letter*

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As the Department of Public Safety ("Department") is charged with determining which jurisdictions have licensing procedures "at least as strict as South Carolina's" and determining the existence of any reciprocal arrangement with the foreign jurisdiction in question, I contacted the Office of General Counsel for the Department with reference to your question. I have been provided with a copy of a "DMV Procedural Memorandum" (copy enclosed) by the Department which sets forth the following jurisdictions as meeting the criteria under Section 56-1-30(6) for foreign drivers licenses:

**Commercial and non-commercial**

Canada

**Commercial Only**

Mexico with CDLIS connection

**Non-commercial only**

American Samoa

France

Germany

Guam

Puerto Rico

Virgin Islands

As you can see, Mexico is on the list for commercial drivers licenses only, provided there is a CDLIS connection. CDLIS stands for Commercial Driver's License Information System and is a clearinghouse run by the Federal Motor Carrier Safety Administration. CDLIS allows states which are connected to exchange information about commercial motor vehicle drivers and traffic convictions and disqualifications. I have enclosed with this opinion a copy of some information on CDLIS which I printed from the Administration's web site at [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov).

Mexico is not on the list, however, for non-commercial driver's licenses. Therefore, a non-commercial driver would not "qualify [pursuant to §56-1-30(6)] to drive in this state for the five-year period indicated in this statute with only a driver's license issued in Mexico." While Section 56-1-30(6) may not be applicable to a person with a non-commercial driver's license from Mexico, other subsections of Section 56-1-30 may permit such a person to temporarily operate a motor vehicle in South Carolina with no other driver's license.

Section 56-1-30(6) is applicable generally to foreign nationals who are in this State for a substantial period of time as the result of employment and who have established some level of

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time. While I can find no South Carolina case law interpreting the relevant statutes, the Georgia Courts recently interpreted Georgia's statutes in this area which are somewhat similar to ours. I believe the following holding of the Georgia Court of Appeals in Diaz v. State, 537 S.E.2d 784 (Ga.App. 2000), provides insight into how our §56-1-30(2) should be applied:

.... reading the two statutes in pari materia, the intention of the General Assembly was not to exempt undocumented aliens from the requirement of obtaining a Georgia driver's license but to permit visitors, with no intention of becoming residents, to drive here without obtaining a Georgia license. Undocumented aliens who have been living in Georgia for five years, like Diaz, are simply prohibited from driving if they cannot obtain a valid Georgia driver's license.

Unfortunately, I cannot provide a specific answer to your question. The answer necessarily depends on questions of fact surrounding the type of license, the residency of the driver, etc. I hope that this opinion and the enclosed information will provide you and your court with some guidance in dealing with the issue.

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

DKA/an  
Enclosures