

7136 Liberty



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON  
ATTORNEY GENERAL

October 31, 2001

Cpl. Heyward McDonald  
Traffic Division  
Charleston Police Department  
180 Lockwood Boulevard  
Charleston, South Carolina 29403

**Re: S.C. Code Ann. §12-37-2615**

Dear Cpl. McDonald:

You have requested an opinion from this Office ".... regarding payment of property taxes as defined by S.C. statute 12-37-2615." Specifically, you ask the following four questions:

1. Is a patrol unit of the local law enforcement authority allowed to enforce this code?
2. Is a local municipality allowed to enforce the statute?
3. Assuming this is allowed, could the local law enforcement agency use the standard State of South Carolina Uniform Traffic Ticket (form S438 REV 10-88)? (or would another form be expected?)
4. Would it be appropriate to also issue a summons / uniform traffic ticket to the same violator for the offense of Expired License Tags (S.C. 56-3-840) for failure to register the same vehicle with the S.C. DMV? (If applicable)

S.C. Code Ann. 12-37-2615 provides that "[a]ny person who violates the provisions of § 12-37-2610 shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars or imprisoned for a period not to exceed thirty days, or both." Section 12-37-2610 concerns the payment of ad valorem taxes on motor vehicles. Regardless of the county in which the ad valorem taxes are to be paid, the requirement that they be paid and the criminal penalty for failure to pay are matters of State law.

*Respectfully,  
Charlie Condon*

### **Question 1**

S.C. Code Ann. §5-7-110 provides that municipal “[p]olice officers shall be vested with all the powers and duties conferred by law upon constables, in addition to the special duties imposed upon them by the municipality.” This Office has previously opined that this language gives the municipal police officer the authority to arrest for violations of municipal ordinances and violations of State law. See OP. ATTY. GEN. (Dated July 17, 1975). Further demonstrating municipal police officers’ authority to arrest for violations of State law is Section 17-13-40 which states, in pertinent part, as follows:

When the police authorities of a town or city are in pursuit of an offender for a violation of a municipal ordinance or statute of this State committed within the corporate limits, the authorities may arrest the offender, with or without a warrant, at a place within the corporate limits, at a place within the county in which the town or city is located, or at a place within a radius of three miles of the corporate limits.

Accordingly, a municipal police officer would have the authority to enforce the provisions of Section 12-37-2615 should a violation of such occur within his/her municipality.

### **Question 2**

When a violation of state law is charged within a municipality, the municipal court has jurisdiction over the matter. See S.C. Code Ann. §14-25-45 (“[t]he [municipal] court shall .... have all such powers, duties and jurisdiction in criminal cases made under state law and conferred upon magistrates”). As a violation of Section 12-37-2615 is a violation of State law, the municipality in which it occurs could exercise jurisdiction over the matter through its municipal court.

### **Question 3**

The uniform traffic ticket could be used as an appropriate charging document for violations of Section 12-27-2615. Section 56-7-15 provides that “[t]he uniform traffic ticket .... may be used by law enforcement officers to arrest a person for an offense committed in the presence of a law enforcement officer if the punishment is within the jurisdiction of magistrate's court and municipal court.” As Section 12-27-2615 sets the maximum punishment at a one-hundred dollar fine and/or thirty days imprisonment, a uniform traffic ticket charging such could vest jurisdiction in the municipal court.

### **Question 4**

S.C. Code Ann. §56-3-840 provides that “[a] person who drives, moves, or operates on a highway a vehicle for which a registration and license are required but have not been obtained within thirty days of the date when required is guilty of a misdemeanor.” Registration and licensing and

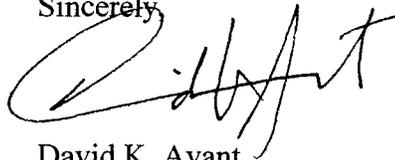
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the accompanying fees are requirements under Title 56 of the Code and are separate and distinct from the ad valorem taxes required pursuant to Section 12-37-2610.

A defendant may be charged and convicted of two separate crimes arising from the same conduct where the conduct consists of two distinct offenses. State v. Pace, 337 S.C. 407, 523 S.E.2d 466 (1999). Accordingly, if the facts dictate, the same driver could be ticketed for violations of Sections 12-37-2615 and 56-3-840.

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,

A handwritten signature in black ink, appearing to read "David K. Avant". The signature is fluid and cursive, with a large initial "D" and "A".

David K. Avant  
Assistant Attorney General

DKA/an