

1980 WL 121133 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 1, 1980

*1 Mr. Charles Garrett
Director
Public Safety
City of Travelers Rest
117 N. Poinsett Highway
P. O. Box 598
Travelers Rest, SC 29690

Dear Mr. Garrett:

You have requested advice as to whether police squad cars may use red and blue lights as a means of warning the public when on an emergency call. You have indicated that your vehicle is used both for fire and police purposes but that it is primarily used for law enforcement purposes. Enclosed please find a copy of [Code of Laws of South Carolina § 56-5-4700](#) and amendments thereto. Subsections (b) and (c) are the sections which you should be concerned with.

Both fire department vehicles and police vehicles are 'authorized emergency vehicles'. [Code of Laws of South Carolina § 56-5-170](#). Subsection (c) of [§ 56-5-4700](#) requires that the police vehicles be equipped with dome-mounted oscillating, rotating or flashing blue lights, visible from a distance of 500 feet. That same section also allows for police vehicles to be equipped with alternately flashing red lights or dome-mounted oscillating, rotating or flashing red lights. While this subsection is somewhat confusing, I believe the intent of the General Assembly was to allow the use of red or blue lights on vehicles primarily used for law enforcement purposes, provided that the vehicle must have at least one dome-mounted blue light. It should be noted that if the vehicle is not used primarily for law enforcement purposes that it would be unlawful for it to utilize a rotating blue light.

Section 14-21-510 grants to the Family Court exclusive jurisdiction over minors who are 'alleged to have violated or attempted to violate any State or local law or municipal ordinance, regardless of where the violation occurred except as provided in § 14-21-515'. [South Carolina Code § 14-21-510\(A\)\(1\)\(d\) \(Cum. Supp. 1979\)](#) (emphasis added).

Section 14-21-515 provides:

Notwithstanding any other provisions of this article, the magistrate courts, municipal courts and circuit courts of this State shall have concurrent jurisdiction with the family courts for the trial of persons under seventeen years of age charged with traffic violations when such courts would have jurisdiction of the offense charged if committed by an adult.

The family court shall report all convictions of juveniles for moving traffic violations to the Department of Highways and Pub Transportation as required by other courts pursuant to § 56-1-330.

This is the only exception to the exclusive jurisdiction of the Family Court over minors charged with criminal violations. Even when the minor is charged with murder or rape, a petition must be made to the Family Court to transfer the case to the Court of General Sessions and the Family Court may refuse the petitioner. It is clear that the reporting requirements of § 14-21-515 are unique as far as the handling of criminal cases involving minors is concerned.

Upon receipt of a report of a traffic conviction, the Department must take action depending on the nature of the conviction. For most violations, a recordation of the offense and assessment of points is required under §§ 56-1-720 and 56-1-740. The

Department may presume 'a total of twelve points assessed against any driver . . . to indicate such disrespect and disregard [as to justify the suspension of the driver's license].' Section 56-1-740. Nothing in this section would require the Department to evaluate minors in a different way from adults since the section speaks about drivers.

*2 As to offenses such as DUI where a suspension of the driver's license is required, § 56-1-280 requires the Department to revoke or suspend upon the receipt of a record of such driver's conviction. No distinction is made for the treatment of minors. Furthermore no exception for minors is made by § 56-9-500 which requires any person whose license has been suspended to maintain proof of financial responsibility.

The Family Court Act, prior to the 1978 amendment which added § 14-21-515, prohibited the court from reporting convictions to the Department of Highways and Public Transportation, just as such reports were and still are prohibited to everyone else. Without the reports, the Department had no way of acting on juvenile traffic convictions because it had no way of knowing about them. With the reports, certain acts on the part of the Department become required. There can be no doubt that the Legislature intended minors to suffer the full civil consequences of their unlawful traffic offenses since no exception therefrom was provided in the 1978 amendment. Prior to the amendment, no civil consequences attended their conviction of traffic offenses since reports of those convictions could not be reported to the Department. It seems clear that the legislature felt that a minor who was old enough to drive a car was old enough to bear all of the consequences of his reckless or unlawful behavior.

As to whether or not the Department is required to publish, pursuant to § 56-5-3000, the names of minors whose licenses are suspended for having been convicted of driving under the influence, the same general analysis holds true. Section 56-5-3000 speaks of the publication of the name and address of any person whose driver's license is suspended for DUI. No exception is made either in §§ 56-5-3000 or 14-21-515 for minors. the legislature is presumed to be aware of existing law and the absence of any exception which might have been provided by statute leads to the conclusion that the legislature intended the names of minors to be published also.

Furthermore, it should be noted that minors who are tried in magistrates court or general sessions court in accordance with the provisions of § 14-21-515 are not protected by the Family Court rules of secrecy. Anyone, including newspaper reporters, may attend such trials and report the trial.

Therefore, it is the opinion of this office that the Department is required to treat minors who have committed traffic violations in the same manner that it treats adults. More particularly it is the opinion of this office that minors are not exempted from the requirement of § 56-9-500 to maintain financial responsibility once their license or privilege to operate a motor vehicle has been suspended. Furthermore, pursuant to the requirements of § 56-5-3000, the Department must release to the public the names and addresses of all persons whose driver's license is suspended for a conviction of DUI, regardless of their age.

*3 I hope this reply has answered your questions fully. If any further explanation is desired, please let me know.

William L. Todd
State Attorney

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