

1976 WL 30469 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 24, 1976

**\*1 Re: R-513-H-3094**

The Honorable T. Dewey Wise  
Senator  
Post Office Box 443  
Charleston, South Carolina 29401

Dear Dewey:

Thank you for your letter concerning the above Act.

We have had no complaints on the Act, although it has been the subject of one opinion which will be sent out today or tomorrow. The Home Rule Act provided in the amendment to Section 47-38 (75 Acts 725) that trial of municipal cases should be within seven days. It is our view that R-513 supersedes this portion of the Home Rule Act insofar as traffic cases are concerned and that trial cannot be had in any court where bond is posted until the expiration of ten days.

Colonel Thompson of the Highway Patrol states that he has no objection to the law, although he would prefer that it be amended to require the magistrates to accept the bonds collected by them immediately. It seems to me that this could be handled administratively by the Highway Department so as to provide that the patrolman deposit the monies at the end of each day at a designated place and obtain a receipt. Then the patrolman is relieved of having the responsibility of carrying around large amounts of money. No police officers have complained to me, although it is my understanding that they are generally concerned about the ten-day period because it does require them to carry around large amounts of money. As stated, I believe that this can be handle administratively.

J. C. Coleman thinks that this statute is a good idea, as officers, particularly in saturation enforcement procedures, are prone to have cases returnable too quickly. Judge Nicholson has, in fact, extended an order in at least one case requiring that cases be deferred for seven days prior to being called, irrespective of whether bond is posted or not.

The officers may be correct in being unable to remember details of an incident for a period of ten days but this can be easily eliminated by instructions which have always been given them to make notes of the cases which they bring so that they can refresh their memories from those notes at the time of trial.

Neal Forney, who is with the County Administrator's Office and who works very closely with all of the magistrates in the State, tells me that there have been no complaints made to him by magistrates concerning the law.

On the basis of what I have been able to gather, I see no objection to the statute.

With best wishes,  
Cordially,

Daniel R. McLeod  
Attorney General

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