

1972 WL 25314 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 15, 1972

*1 Honorable William M. Bradham
Magistrate
Route #2
Greeleyville, S. C. 29056

Dear Judge Bradham:

You recently inquired of me whether or not an individual could be charged with violation of Section 46-343 of the 1962 Code if the vehicle involved was of the type that did not require a driver's license for its operation. I have attempted on numerous occasions to reach you by telephone without success, however, I furnish the following as an answer to your inquiry.

Section 46-343 of the Code states as follows:

It is unlawful for any person who is a habitual user of narcotic drugs or any person who is under the influence of intoxicating liquors, narcotic drugs, barbiturates, paraldehydes or drugs, herbs or any other substance of like character, whether synthetic or natural, to drive any vehicle within this State.

You will note that the Section as quoted does not mention after the word 'vehicle' that the 'vehicle' must be one for which one must have a driver's license to operate.

Section 46-211 of the Code defines vehicle as 'every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks . . .'

It would therefore appear that one arrested for violation of Section 46-343 if driving a vehicle as defined by Section 46-211 may be tried for violation of this offense. It would further appear of no consequence that the operator of a vehicle so defined was operating a vehicle for which no driver's license was required. You should be guided in your determination of whether or not one is driving a vehicle by the definition located in Section 46-244 which states as follows:

Every person who drives or is in actual physical control of a vehicle is a 'driver'.

If I may be of further assistance in this matter or any others, please don't hesitate to let me know.

Very truly yours,

James C. Harrison, Jr.
Assistant Attorney General
Administrator for Magistrate Courts

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