



ALAN WILSON
ATTORNEY GENERAL

March 16, 2023

John O. Long
McCormick County Sheriff's Office
PO Box 1236
McCormick, SC 29835

Dear Mr. Long:

We received your request for an opinion on behalf of the McCormick County Sheriff's Office on certain questions related to possible charges for theft of a golf cart. This opinion sets out our Office's understanding of your questions and our response.

Issue (as quoted from your letter):

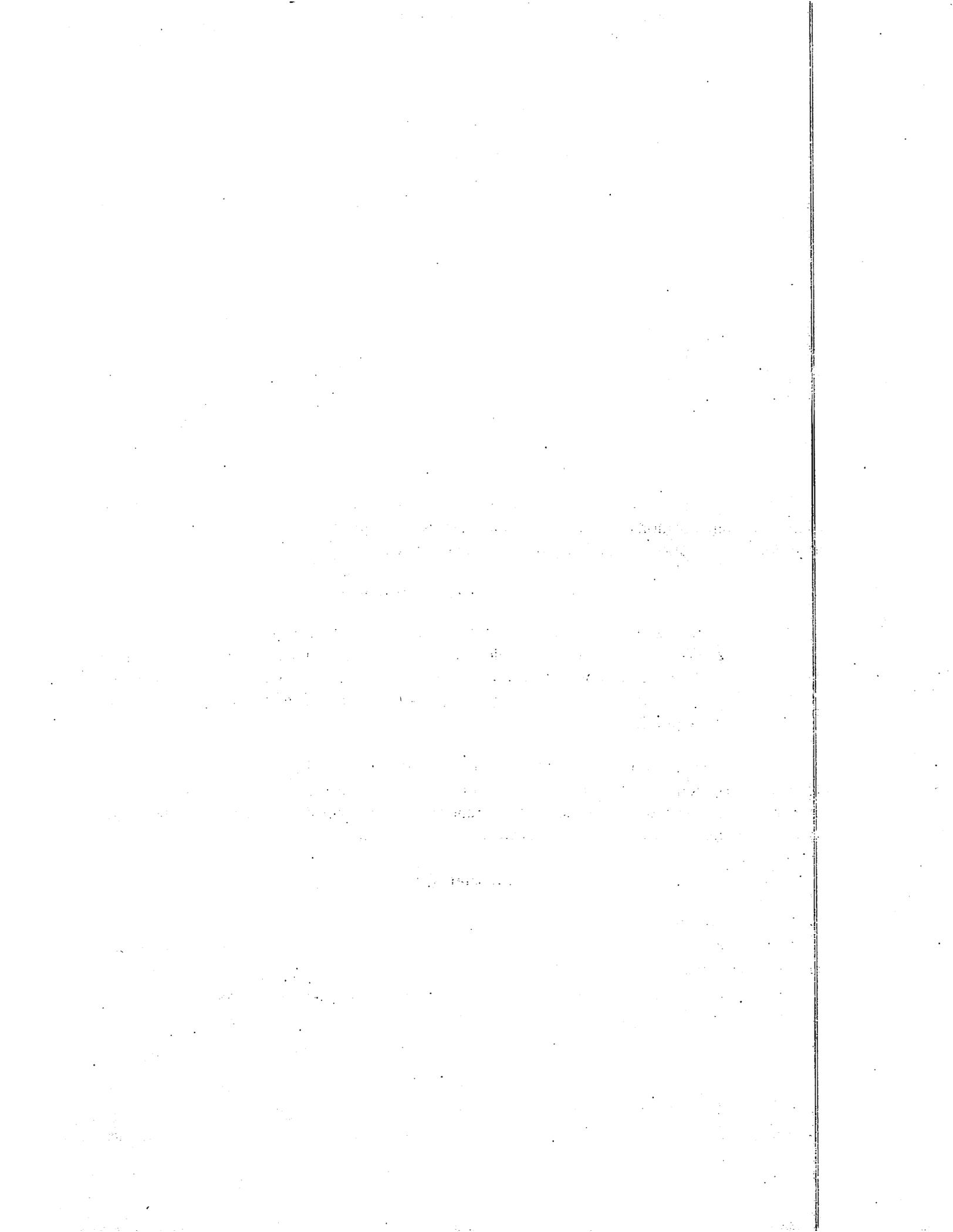
1. Is a golf cart considered a motor vehicle when stolen in our state?
2. When a golf cart is stolen, is the golf cart, under South Carolina law, considered a piece of property [for purposes of the Larceny statute] or is the golf cart a motor vehicle [for purposes of the Theft of a Motor Vehicle statute]?

Your letter also references code section 56-1-10, which defines "vehicle" and "motor vehicle"; and sections 16-21-80 and 16-13-30 of the South Carolina Code, which are criminal provisions relating to receiving stolen vehicles and larceny, respectively. Our discussion in this opinion will focus on these statutes consistent with your request.

Law/Analysis:

Before offering our opinion, we reiterate that our Office's longstanding policy is to defer to magistrates in their determinations of probable cause, and to local officers and solicitors in deciding what charges to bring and which cases to prosecute. As you also know, law enforcement officers and solicitors have discretion in how they allocate the limited resources that the taxpayers provide to them. Additionally, this Office is not a finder of fact, and any criminal case necessarily depends on its own facts.

With that caveat, it is the opinion of this Office that a golf cart is considered a vehicle for purposes of section 16-21-80. Although it appears that the Code no longer defines a vehicle for the purpose of Title 16 specifically, several prior opinions of this Office and numerous



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provisions of the South Carolina Code treat a golf cart as a vehicle for purposes of South Carolina law – including criminal law. *See, e.g., Op. S.C. Att'y Gen.*, 2006 WL 1877111 (June 7, 2006) (quoted *infra*).

Before discussing the current law, it's worth observing a point of statutory history. Section 56-19-10 defines certain terms “[f]or the purposes of this chapter and Chapter 21 of Title 16” (emphasis added), which contains section 16-21-80 (Receiving Stolen Vehicles). A prior version of section 56-19-10 defined “vehicle” and “motor vehicle” for purposes of crimes set out in title 16. However, the General Assembly amended that statute in 2017 and removed those definitions from the section: in 2017, Act 34 removed the definitions of “motor vehicle” and “vehicle” from section 56-19-10, and added verbatim the definition of “vehicle” to section 56-1-10, which currently reads in relevant part:

For the purpose of [Title 56], unless otherwise indicated, the following words, phrases, and terms are defined as follows:

...

(7) “Motor vehicle” means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.

...

(28) “Vehicle” means every device in, upon, or by which a 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. . . .

S.C. Code Ann. § 56-1-10 (Supp. 2022). Section 56-1-10 does not define a golf cart. Furthermore, neither the current nor the previous versions of section 56-19-10 define the term “golf cart.”

As a result of these statutory amendments, it appears that our Code no longer contains a definition of vehicle which applies explicitly to Title 16. Nevertheless, the offenses in Title 16 remain, and it does not appear that the General Assembly intended an implied repeal of any portion of section 16-21-80 when it removed the definition of vehicle from Title 56. Furthermore, South Carolina law still contains ample support for construing a golf cart as a motor vehicle for purposes of section 16-21-80.

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First, as you point out in your letter, section 56-1-10 defines vehicle in a manner that includes a golf cart in the common and ordinary understanding of the term. *Cf. Adoptive Parents v. Biological Parents*, 315 S.C. 535, 446 S.E.2d 404 (1994) (“Where the legislature elects not to define a term in a statute, the courts will interpret the term in accord with its usual and customary meaning.”) This opinion will not undertake to define what a golf cart is, because that is outside the scope of the question. We observe, however, that the definitions of “vehicle” and “motor vehicle” appear to include a golf cart as generally understood, in that golf carts are self-propelled device by which a person may be transported upon a (secondary) highway. *Cf. S.C. Code Ann. § 56-2-105* (2018).

Second, Section 56-2-105 governs golf carts generally, and also does not define the term. Rather, the latter statute simply refers to “a vehicle commonly known as a golf cart.” S.C. Code Ann. § 56-2-105(B) (2018). We reiterate that this opinion will not undertake to define what a golf cart is, because that is outside the scope of the question. The crucial point here is that the General Assembly considered it common knowledge that golf carts are in fact vehicles. The General Assembly also provided by law that a golf cart owner “may obtain a permit decal and registration from the Department of Motor Vehicles” for their golf cart, regulated their operation on streets and secondary highways, and required that “a person operating a permitted golf cart must be at least sixteen years of age and hold a valid driver's license.” S.C. Code Ann. § 56-2-105 (2018). In summary, the South Carolina Legislature not only referred to golf carts as vehicles in Title 56; they also regulated them as vehicles.

Consistent with these statutes, numerous prior opinions of this Office have concluded that golf carts are vehicles for purposes of numerous South Carolina motor vehicle laws. We quote here from a 2006 opinion for its summary of several such prior opinions:

You further questioned whether a golf cart is considered “a regular motor vehicle” with the result that an operator of such has to comply with all motor vehicle laws. Prior opinions of this office have determined that a golf cart falls within the definition of a “motor vehicle” for purposes of various State statutes. *See: Ops. Atty. Gen.* dated April 22, 2004 and October 6, 1998. In particular, the referenced 1998 opinion concluded that while the legislature has by Section 56-3-115 authorized the operation of golf carts under the limited circumstances permitted by such statute, there must still be compliance with statutory requirements regulating the manner of operation of a vehicle by a licensed driver. The 2004 opinion concluded that “...inasmuch as a golf cart comes within the definition of a motor vehicle, in order to drive the golf cart upon the highways or streets as permitted by Section 56-3-115, an individual must be licensed unless

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exempted by Section 56-1-30.” Another opinion of this office dated September 10, 1980 had also specified that golf carts would fall within the definition of a “motor vehicle” as referenced in S.C. Code Ann. § 56-5-130. Such statute defines a “motor vehicle” as “[e]very vehicle which is self-propelled, except mopeds....” Section 56-5-130 defines a “motor vehicle” for purposes of Chapter 5 of Title 56 which is the “Uniform Act Regulating Traffic on Highways”. Chapter 5 generally regulates the operation of motor vehicles on the roads of this State. Therefore, in my opinion, State statutes regulating the manner of operation of motor vehicles generally would apply to the operation of a golf carts in this State.

Op. S.C. Att’y Gen., 2006 WL 1877111 (June 7, 2006) (emphasis added). This 2006 opinion predates the 2017 amendments to the Code discussed above, but the reasoning applies with equal force where the Code continues to regulate golf carts as vehicles. *See also Op. S.C. Att’y Gen.*, 2006 WL 1877119 (June 7, 2006) (opining that a child may not operate a golf cart without a driver’s license).

Finally, with respect to your question re: a possible larceny charge, our Office opined in 1995 regarding “what possible charges could be brought for a stolen automobile.” *Op. S.C. Att’y Gen.*, 1995 WL 803348 (March 28, 1995). That opinion discusses both larceny and taking a vehicle without permission. We have enclosed a copy of that opinion together with this opinion for your reference. We offer these to aid you in your discussion with the circuit solicitor regarding whether the facts of a particular case merit charges under a particular criminal statute, such as larceny (section 16-13-30), possession of a stolen vehicle (section 16-21-80), or some other statute. In particular, we encourage discussion of the different elements of each offense, and whether they are met in a given case. As stated by the Court of Appeals in *State v. McNeil*,

The possession of a stolen vehicle statute [S.C. Code Ann. § 16–21–80] requires the defendant “receives, possesses, conceals, sells or disposes of” a stolen vehicle “knowing it to be stolen.” . . . [G]rand larceny and possession of a stolen vehicle are separate and distinct offenses because the possession of a stolen vehicle statute requires the defendant receive the goods from someone who actually stole them, and he cannot receive from himself.

State v. McNeil, 314 S.C. 473, 476, 445 S.E.2d 461, 462-63 (Ct. App. 1994) (vacating guilty plea where defendant was indicted for grand larceny of a vehicle but pleaded guilty to possession of a stolen vehicle).

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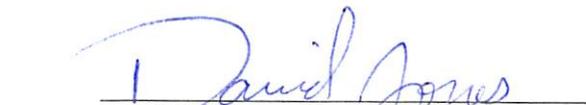
Conclusion:

In conclusion, it is the opinion of this office that a golf cart is considered a vehicle for purposes of section 16-21-80. Although it appears that the Code no longer defines a vehicle for the purpose of Title 16 specifically, several prior opinions of this Office and numerous provisions of the South Carolina Code treat a golf cart as a vehicle for purposes of South Carolina law – including criminal law. As to what possible charges might be brought for a stolen vehicle, we have enclosed a copy of a prior opinion of this Office which addresses that question directly. *Op. S.C. Att'y Gen.*, 1995 WL 803348 (March 28, 1995).

Our Office's longstanding policy is to defer to magistrates in their determinations of probable cause, and to local officers and solicitors in deciding what charges to bring and which cases to prosecute. As you also know, law enforcement officers and solicitors have discretion in how they allocate the limited resources that the taxpayers provide to them. Additionally, this Office is not a finder of fact, and any criminal case necessarily depends on its own facts. That said, we are always happy to provide law enforcement officers with resources to discuss in their conversations with solicitors about what charges, if any, might be appropriate.

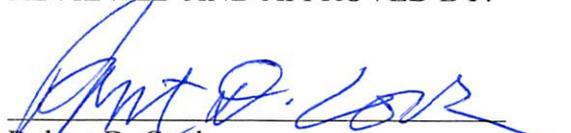
This opinion is not an attempt to comment on any pending litigation or criminal proceeding. Our discussion of the law here is simply intended to aid you in your work and your discussions with your circuit solicitor – in particular, discussion of the different elements of possible charges. *See State v. McNeil*, 314 S.C. 473, 476, 445 S.E.2d 461, 462-63 (Ct. App. 1994) (vacating guilty plea where defendant was indicted for grand larceny of a vehicle but pleaded guilty to possession of a stolen vehicle).

Sincerely,



David S. Jones
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General