

PA2 Lulung



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

July 29, 2005

Dale L. DuTremble, City Prosecutor
City of North Charleston
2536 Fourth Street
North Charleston, South Carolina 29406

Dear Mr. DuTremble:

In a letter to this office you questioned the legitimacy of foreign police markings displayed on a private vehicle. You forwarded a photograph of the vehicle in question which shows a vehicle with stripes and what appears to be a shield-type decal on the front passenger door of the vehicle. Also displayed below the shield decal is the word "POLIZEI" which I understand to be German for the word "police". See: International Armament Corp. v. Matra Manurhin International, 630 F. Supp. 741 (E.D. Va. 1986). You indicated that there are no blue lights or other emergency equipment displayed on the vehicle.

Pursuant to S.C. Code Ann. § 56-5-170(C) (Supp. 2004), "(a) vehicle shall not display the word 'police' unless it is an authorized emergency vehicle for use only by sworn police or other officers who are approved and certified by the South Carolina Criminal Justice Academy." In reviewing such provision, certain rules of statutory construction are relevant. First and foremost, is the cardinal rule of statutory interpretation, which is to ascertain and effectuate the legislative intent, whenever possible. State v. Morgan, 352 S.C. 359, 574 S.E.2d 203 (Ct. App. 2002) (citing State v. Baucom, 340 S.C. 339, 531 S.E.2d 922 (2000)). All rules of statutory construction are subservient to the one that legislative intent must prevail if it can be reasonably discovered in the language used, and such language must be construed in light of the statute's intended purpose. State v. Hudson, 336 S.C. 237, 519 S.E.2d 577 (Ct. App. 1999), cert. denied as improvidently granted, State v. Hudson, 346 S.E. 139, 551 S.E.2d 253 (2001). Moreover, a statutory provision should be given a reasonable and practical construction consistent with the purpose and policy expressed in the statute. Hay v. S.C. Tax Comm., 273 S.C. 269, 255 S.E.2d 837 (1979). In construing statutes, the words used must be given their plain and ordinary meaning without resort to a subtle or forced construction for the purpose of limiting or expanding their operation. Walton v. Walton, 282 S.C. 165, 318 S.E.2d 14 (1984). Further, as our Supreme Court stated in Greenville Baseball, Inc. v. Bearden, 200 S.C. 363, 20 S.E.2d 813, 816 (1942), "it is a familiar canon of construction that a thing which is within the intention of the makers of the statute is as much within the statute as if it were within the letter. It

Respectfully,
Henry McMaster

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is an old and well established rule that the words ought to be subservient to the intent and not the intent to the words."

Admittedly, as a general rule, statutes regarding criminal procedure and authority are strictly construed. S.C. Ops. Atty. Gen. dated October 18, 1994 and September 25, 2001. While there is no specific penalty provision attached to Section 56-5-170(C), generally, pursuant to S.C. Code Ann. § 56-5-6190,

It is a misdemeanor for any person to violate any of the provisions of this chapter unless such violation is by this chapter or other law of this State declared to be a felony. Every person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided shall be punished by a fine of not more than one hundred dollars or by imprisonment not more than thirty days.

Section 56-5-170(C) is included in Chapter 5 of Title 56.

In my opinion, displaying on a vehicle the word "POLIZEI" along with the appearance of stripes and what appears to be a shield-type decal on the front passenger door of the vehicle, violates the spirit if not the literal language of Section 56-5-170(C). In my opinion, such actions violate the legislative intent which is to prevent individuals from masquerading as police so as to possibly mislead the public or law enforcement. While not free from doubt, it is my opinion that such actions are a violation of Section 56-5-170(C).

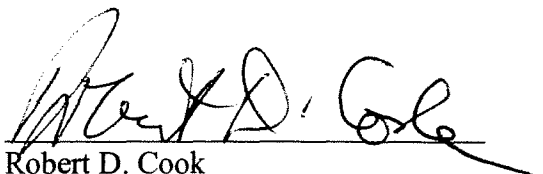
If there are any questions, please advise.

Sincerely,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General