



HENRY McMASTER  
ATTORNEY GENERAL

November 14, 2006

Martha E. Johnson, Interim General Counsel  
South Carolina Criminal Justice Academy  
5400 Broad River Road  
Columbia, South Carolina 29212-3540

Dear Ms. Johnson:

In a letter to this office you raised questions regarding the use of the uniform traffic ticket by law enforcement officers. S.C. Code Ann. § 56-7-10 states that

There will be a uniform traffic ticket used by all law enforcement officers in arrests for traffic offenses and for the following additional offenses:..

No other ticket may be used for these offenses. The service of the uniform traffic ticket shall vest all traffic, recorders', and magistrates' courts with jurisdiction to hear and to dispose of the charge for which the ticket was issued and served....(emphasis added).

S.C. Code Ann. § 56-7-40 provides that:

Any person intentionally violating the provisions of § 56-7-10 or 56-7-30<sup>1</sup> shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than two hundred fifty dollars nor more than fifteen hundred dollars or imprisoned for not more than six months, or both, for each ticket unaccounted for, or each use of a nonuniform ticket, or each failure to timely forward the Department of Motor Vehicles records copy or audit copy of a ticket. If the failure to account for a ticket, or the use of a nonuniform ticket, or the failure to timely forward the Department records or audit copy of the ticket is inadvertent or unintentional, such misuse shall

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<sup>1</sup>Section 56-7-30 provides for the printing and ordering of traffic tickets and requires the forwarding of certain record and audit copies to the Department of Motor Vehicles. It also provides for the use of electronic tickets.

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be triable in magistrate's court and upon conviction shall be punishable by a fine of not more than one hundred dollars. Any person charged with failing to timely forward the results of the annual inventory shall be tried in magistrate's court and upon conviction shall be fined not more than one hundred dollars.

Referencing such provisions you have asked whether a municipality is in violation of Section 56-7-10 if its officers substitute the uniform traffic ticket as prescribed by statute for minor traffic offenses, such as speeding, and instead utilize a "town ticket" when citing the municipality's "careless operation law" which carries a higher penalty but no points on the driver's license. You also questioned whether if a municipality is determined to be in violation of Section 56-7-10, is it then subject to the penalties set forth in Section 56-7-40, and if so, is the penalty assessed against the municipality where the violation occurred or the officer who wrote the ticket.

A prior opinion of this office dated October 15, 2003 dealt with the question of whether violations of municipal ordinances, such as careless or negligent operation of a vehicle, could be cited using a municipal summons ticket. Reference was made to S.C. Code Ann. § 56-7-80 which states that

(A) Counties and municipalities are authorized to adopt by ordinance and use an ordinance summons as provided herein for the enforcement of county and municipal ordinances. Upon adoption of the ordinance summons, any county or municipal law enforcement officer or code enforcement officer is authorized to use an ordinance summons. Any county or municipality adopting the ordinance summons is responsible for the printing, distributing, monitoring, and auditing of the ordinance summons to be used by that entity.

(B) The uniform ordinance summons may not be used to perform a custodial arrest. No county or municipal ordinance which regulates the use of motor vehicles on the public roads of this State may be enforced using an ordinance summons. (emphasis added).

The prior opinion determined that

...a municipal ordinance summons may be used to cite for violations of municipal ordinances. However, as to any municipal ordinance pertaining to traffic or motor vehicle offenses, such as careless operation of a vehicle, such must be cited using a uniform traffic ticket. A municipal ordinance summons would not be used in such circumstances.

Consistent with such, in the opinion of this office, a municipality is required to use the uniform traffic ticket when citing for municipal ordinance violations dealing with traffic offenses, such as careless operation. It may not use a municipal ordinance summons in such situation. As to

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your remaining question of whether if a municipality is determined to be in violation of Section 56-7-10, is it then subject to the penalties set forth in Section 56-7-40, and if so, is the penalty assessed against the municipality where the violation occurred or the officer who wrote the ticket, based upon my review, a court has never ruled on such issue. Presumably, both the municipality and its law enforcement officers would have been acting in good faith when a municipal ordinance summons was used in such situation. However, only a court could answer the question with finality. As a result, it is our recommendation that the whole question regarding the municipal offense of careless operation of a vehicle and its ramifications be brought before a court, such as in a declaratory judgment action. Until a court rules, it appears that a municipal careless operation of a vehicle ordinance should be presumed valid and that a municipality and its officers who utilize a municipal ordinance summons in such situation are acting in good faith.

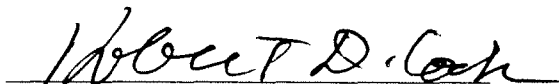
With kind regards, I am,

Very truly yours,



Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Assistant Deputy Attorney General