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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

October 29, 2002

The Honorable W. Greg Ryberg
Senator, District No. 24
P.O. Box 1077
Aiken, South Carolina 29802

Re: Your Letter of October 1, 2002
S.C. Code Ann. §56-1-440

Dear Senator Ryberg:

In your above-referenced letter, you ask this Office "... for an official opinion ... regarding a statute that has been twice amended but continues to bring conflicting interpretation." By way of background, you indicate that

> §56-1-440 contains the language that would allow a person who had a driver's license, but not on their person at the time of a violation, to take the proof of a valid license to the court prior to the court's disposition and the charge would be dismissed.
>
> It seems that certain magistrates and troopers feel this should be in §56-1-190 because it states that a license shall be carried and exhibited on demand. It is their interpretation that it is in the wrong code section and therefore does not apply regardless of the intent of the law.

Your request concerns Section 56-1-440 and its application to the requirements of Section 56-1-190. The resolution of your concern, therefore, is a matter of statutory interpretation.

LAW/ANALYSIS

The cardinal rule of statutory interpretation is to ascertain and give effect to the legislative intent. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). The statute's words must be given their plain and ordinary meaning without resort to a forced or subtle construction which would work to limit or to expand the statute's operation. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991). The clear and unambiguous terms of a statute must be applied according to their literal meaning. State v. Blackmon, supra. In construing a statute, it is proper to consider legislation

dealing with the same subject matter. Fidelity and Casualty Ins. Co. of New York v. Nationwide Ins. Co., 278 S.C. 332, 295 S.E.2d 783 (1982). Separate statutes relating to the same subject matter must be construed together and effect given to each. Columbia Gaslight Co. v. Mobley, 139 S.C. 107, 137 S.E. 211 (1927) Different statutes in pari materia (relating to the same subject) though enacted at different times, should be construed together as one system and as explanatory of each other. Fisburne v. Fisburne, 171 S.C. 408, 172 S.E. 426 (1934); See also OP. ATTY GEN. DATED AUGUST 17,1990.

S.C. Code Ann. §56-1-190 provides that "[a] licensee shall have his license in his immediate possession at all times when operating a motor vehicle and shall display it upon demand of an officer or agent of the department or a law enforcement officer of the State." Section 56-1-20 provides that "[n]o person, except those expressly exempted in this article shall drive any motor vehicle upon a highway in this State unless such person has a valid motor vehicle driver's license issued to him under the provisions of this article." In order for someone to be considered a "licensee," that person would have to have a license issued pursuant to Section 56-1-20. Therefore, it is apparent that the requirements of Section 56-1-190 relate to a person who is operating a motor vehicle and who has actually been issued a valid driver's license.

Section 56-1-440, on the other hand, provides in part as follows:

> A person who drives a motor vehicle on a public highway of this State without a driver's license in violation of Section 56-1-20 is guilty of a misdemeanor .... However, a charge of driving a motor vehicle without a driver's license must be dismissed if the person provides proof of being a licensed driver at the time of the violation to the court on or before the date this matter is set to be disposed of by the court.

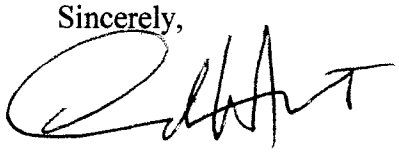
The prohibitions of Section 56-1-440, unlike 56-1-190, relate to a person who is driving a vehicle without having been issued a valid license pursuant to Section 56-1-20. The last sentence of Section 56-1-440, however, excepts from punishment for a charge of driving without a driver's license a person who proves that he or she had been issued a valid license pursuant to Section 56-1-20 at the time of the offense.

The exception provided in the last sentence of Section 56-1-440, in its current form, was enacted by the General Assembly in 1999. It appears that the intent of the legislature was that the exception apply to situations covered by the requirements of Section 56-1-190. That is, the exception would apply to a person who has been issued a valid driver's license, but who fails to have it in his or her possession at the appropriate time.

CONCLUSION

As indicated above, when interpreting statutes, the paramount concern is to give effect to the intent of the legislature. Further, statutes cannot be read in a vacuum. Regardless of when statutes are passed or in what Code Section they may be printed, statutes related to the same subject matter must be construed together in an attempt to effectuate legislative intent. In this case, it appears consistent with legislative intent that the exception provided for in the last sentence of Section 56-1-440 should also apply to Section 56-1-190 when appropriate. This conclusion, however, is not totally free from doubt and perhaps legislative clarification is necessary to avoid any future confusion.[1]

Sincerely,



David K. Avant
Assistant Attorney General

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[1] By Memorandum to Magistrates and Municipal Judges dated October 9, 2002, Chief Justice Jean Toal asked that the Judges consider legislative intent in interpreting Sections 56-1-199 and 56-1-440 and dismiss "'no possession' cases when the appropriate proof is timely provided." Chief Justice Toal also indicated that confusion was understandable and the perhaps "the statutes will soon be amended to reflect the Legislature's intent."