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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

August 25, 2000

Robert L. McCurdy, Staff Attorney
South Carolina Court Administration
1015 Sumter Street, Suite 200
Columbia, South Carolina 29201

RE: Informal Opinion

Dear Mr. McCurdy,

By your letter of August 10, 2000, you have requested an opinion of the Attorney General's Office concerning the recently amended South Carolina Code of Laws Section 56-1-460, which grants authority to magistrates to dispose of driving under suspension [DUS] cases.

The amended version of South Carolina Code Section 56-1-460 (Act No. 376) states, in part:

Except as provided in subitem (2), a person who drives a motor vehicle on any public highway of this State when his license to drive is canceled, suspended, or revoked must, upon conviction, be punished as follows:

- (a) for a first offense, fined two hundred dollars or imprisoned for thirty days, or both
- (b) for a second offense, fined five hundred dollars or imprisoned for sixty consecutive days, or both; and
- (c) for a third and subsequent offense, imprisoned for not less than ninety days nor more than six months, no portion of which may be suspended by the trial judge.

Notwithstanding the provisions of Sections 22-3-540, 22-3-545, and 22-3-550, an offense punishable under this subitem must be tried exclusively in magistrate's court.

(Emphasis added). Specifically you are concerned with the emphasized language above. You have several questions, each of which I will answer in turn.

1) Would this Code section grant municipal courts the authority, as conferred upon magistrates by Act No. 376, to dispose of the driving under suspension cases?

*Respectfully,
Charles Molony Condon*

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Although a literal interpretation of the terms "tried exclusively" might be read to allow only magistrates' courts to try the cases, this Office has opined consistently that a municipal court has concurrent jurisdiction with a magistrate's court. See Op. Atty. Gen. Sept. 29, 1999; Op. Atty. Gen. Aug. 19, 1998. All statutes are presumed to be enacted by the legislature with full knowledge of the existing condition of the law, and so the meaning and effect of one statute must be determined with reference to that of other statutes in pari materia so as to construe them together into one integrated system of law. Fishburne v. Fishburne, 171 S.C. 408, 172 S.E. 426 (1932). South Carolina Code Section 14-25-45 states that the municipal courts "shall also have all such powers, duties, and jurisdiction in criminal cases made under state law and conferred upon magistrates." We are in agreement with your Office that the General Assembly intended Section 56-1-460 to be read in pari materia with Section 14-25-45 and thus conferred upon municipal courts the authority to hear DUS cases.

2) Can solicitors prosecute these cases in the court of general sessions?

As we have noted in the first question above, "tried exclusively" probably should not be interpreted to exclude municipal courts as well, given the grant of concurrent authority in Section 14-25-45. However, the language cannot be devoid of all meaning, and the General Assembly must have intended to limit jurisdictions that might otherwise hear the cases. The context of the statute must be examined as part of the process of determining the intent of the General Assembly. Hancock v. Southern Cotton Oil Co., 211 S.C. 432, 45 S.E.2d 850 (1948). Because Section 56-1-460 says "Notwithstanding the provisions of Section 22-3-540, 22-3-545, 22-3-550," which grant exclusive and concurrent jurisdiction to magistrates and authorize the transfer of cases from general sessions court, the General Assembly appears to contemplate the court of general sessions in the amendment to the statute. We advise, therefore, that solicitors should not prosecute these cases in the court of general sessions.

3) Would the DUS cases, which would have been disposed of in general sessions but will now be heard in magistrate's court, need to be indicted?

We are also in agreement with your conclusion. The South Carolina Constitution Article I, Section 11 states "no person may be held to answer for any crime the jurisdiction over which is not within the magistrate's court, unless on a presentment or indictment of a grand jury...." Because the Constitutional provision exempts crimes within magistrate court jurisdiction and because Section 56-1-460 restricts jurisdiction exclusively to magistrates' courts, subject to question 1 above, the DUS cases now heard in magistrates' courts need not be indicted.

This letter is an informal opinion only. It has been written by a designated Senior Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General not officially published in the manner of a formal opinion.

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With kind regards, I remain

Very truly yours,

A handwritten signature in black ink, appearing to be 'RDC', written over the typed name.

Robert D. Cook
Assistant Deputy Attorney General