

The State of South Carolina



Office of the Attorney General

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August 18, 1993

The Honorable Walter Jones
Chief Judge, Richland County Summary Courts
Richland County Law Enforcement Center
1328 Huger Street
Columbia, South Carolina 29201

Dear Judge Jones:

In a letter to this Office you questioned what traffic offenses should be considered "non-moving traffic offenses" for purposes of assessing and collecting fees on traffic cases. You particularly questioned driving under suspension, operating an uninsured motor vehicle, drivers' license violations and vehicle tag violations.

S.C. Code Sections 14-1-210 and 24-23-210 specifically refer to the applicability of assessments for nonmoving traffic violations. However, neither provision provides a definition of such term. I am also unaware of any prior State Supreme Court decision or opinion of this Office defining such term. The Wisconsin Attorney General in Opinion Number 92-77 in responding to a similar question stated:

Obvious examples of moving violations are speeding, failure to stop at a stop sign, illegal turns, failure to yield right of way, operating after revocation and drunk driving. In addition, an offense such as a muffler violation would be a moving traffic violation, ... (inasmuch as the statute provides) ... that no person shall operate on a highway any motor vehicle subject to registration without an adequate muffler. "No driver's license" is a moving violation because ... (the statute) ... provides that no person shall operate a motor vehicle upon a highway without a driver's license. Similarly, "failure to register vehicle" is a moving violation because ... (the statute) ... provides that it is unlawful for any person to

Respectfully,

The Honorable Walter Jones

Page 2

August 18, 1993

operate on any highway any motor vehicle which is not registered or exempt. Most traffic violations are of this moving type.

The opinion referenced that parking violations are typically not construed to be moving violations. The opinion in construing such term also referenced violations "which do not have operation of a motor vehicle as an element."

Similarly, concerning your question as to what constitutes a nonmoving traffic offense for purposes of the assessment statutes, reference could be made to whether operation of a motor vehicle is an element in the offense. As to the offenses of driving under suspension, operating an uninsured vehicle, drivers' license violation (which I assume is the offense of driving without a license), and vehicle tag violations, such could be classified as moving violations inasmuch as those offenses specifically reference the operation of a motor vehicle in defining the offense. See: S.C. Code Sections 56-1-440, 56-1-460, 56-3-1240 and 56-10-270.

If there is anything further, please advise.

Sincerely,



Charles H. Richardson
Assistant Attorney General

CHR/an

REVIEWED AND APPROVED BY:



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