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The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK  
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING  
POST OFFICE BOX 11549  
COLUMBIA, S.C. 29211  
TELEPHONE: 803-734-3680  
FACSIMILE: 803-253-6283

February 10, 1994

Mr. Wendal E. Jenkins  
Chief of Police  
City of Pickens  
Post Office Box 217  
Pickens, South Carolina 29671

Dear Chief Jenkins:

In a letter to this Office you questioned whether a violator can be sentenced to jail as an alternative to a fine for exceeding the posted speed limit by less than ten miles.

Pursuant to S.C. Code Section 56-5-1520(d):

- (d) Any person violating the speed limits established by this section is guilty of a misdemeanor and, upon conviction for a first offense, must be fined or imprisoned as follows:
  - (1) in excess of the above posted limit but not in excess of ten miles an hour by a fine of not less than fifteen dollars nor more than twenty-five dollars;
  - (2) in excess of ten miles an hour but less than fifteen miles an hour above the posted limit by a fine of not less than twenty-five dollars nor more than fifty dollars;
  - (3) in excess of fifteen miles an hour but less than twenty-five miles an hour above the posted limit by a fine of not less than fifty dollars nor more than seventy-five dollars; and

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- (4) in excess of twenty-five miles an hour above the posted limit by a fine of not less than seventy-five dollars nor more than two hundred dollars or imprisoned for not more than thirty days.

Therefore, such provision sets forth a possible penalty of imprisonment only in situations where an individual drives in excess of twenty-five miles above the posted limit.

S.C. Code Section 56-5-6190 provides that for offenses in Chapter 5 of Title 56, which would include Section 56-5-1520(d), individuals convicted of misdemeanors "for which another penalty is not provided" may be punished by a fine not to exceed one hundred dollars or a term of imprisonment not to exceed thirty days. Such would not pertain to Section 56-5-1520 inasmuch as a specific penalty is provided.

Inasmuch as Section 56-5-1520 provides for a term of imprisonment only for speeding in excess of twenty-five miles above the posted limit, it would be inappropriate to provide an alternative sentence of imprisonment for an individual exceeding a speed limit by less than ten miles.

With kind regards, I am

Very truly yours,



Charles H. Richardson  
Assistant Attorney General

CHR:jca

REVIEWED AND APPROVED BY:



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Edwin E. Evans  
Chief Deputy Attorney General



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Robert D. Cook  
Executive Assistant for Opinions