



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

October 25, 1995

G. Allan Thurman, Chief of Police
Chesterfield Police Department
110 Main Street
Chesterfield, South Carolina 29709

Re: Informal Opinion

Dear Chief Thurman:

You have asked for an opinion concerning the legality of making a left turn in the business district in order to park in on-street angle parking. You note in your letter that you have received information from Highway Department engineers that "this was a U-turn." In addition, you have asked whether it would be appropriate for Town Council to pass an ordinance prohibiting left turns for parking purposes in the business district.

S.C. Code Ann. Sections 56-5-2140 prohibits so-called "U-turns". That Section provides:

- (a) The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without interfering with other traffic.
- (b) No vehicle shall be turned so as to proceed in the opposite direction upon any curve or upon the approach to or near the crest of a grade where such vehicle cannot be seen by the driver of any other vehicle approaching from any direction within five hundred feet. (emphasis added)

I have been able to find no South Carolina case or opinion of this Office which addresses your questions. The issue here, of course, would be whether turning left into angle parking would constitute proceeding "in the opposite direction" in violation of the U-turn statute.

People v. Kassover, 205 N.Y.S.2d 428 (N.Y. 1960) is instructive on this question. There, the defendant was charged with having made a U-turn in violation of a New York City traffic regulation which provided that "the driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in the business district." At trial, the officer testified that he observed the defendant turn left in order to park in the business district. The lower court had concluded that this did not violate the regulation, holding that "[i]t would seem that a motorist making a U-turn and then parking, without proceeding, would not be violating the regulation." Therefore, the court below held the regulation was unconstitutionally vague.

The appellate court reversed. Finding that the regulation "is sufficiently clear to prohibit a U-turn for any purpose on any street in a business district," the Court stated:

[w]e do not agree with the learned court below that "a motorist making a U-turn and then parking, without proceeding, would not be violating the regulation". A driver operating a vehicle in one direction and making a complete U-turn, even if only for the purpose of parking on the opposite side of the street, would, at least for some distance, "proceed in the opposite direction" before parking and would therefore be in violation of the regulation. The construction applied by the court below to the words "so as to proceed in the opposite direction" as meaning that one who makes such a U-turn violates the regulation only if he continues to proceed in the opposite direction is entirely too narrow. The regulation was intended to prevent the blocking or stoppage of traffic by any driver making a U-turn on a street in a business district, and who thereby would stop or delay traffic in both directions and, as we pointed out, even had such driver made the U-turn for the purpose of parking on the opposite side of the street, he would still, at least for some part of the time, be proceeding in the opposite direction.

205 N.Y.S.2d at 432.

Of course, each situation would depend upon its particular facts. Certainly, if a motorist turns back down the other side of the street to park his vehicle, having turned left, such would constitute a violation of the U-turn statute. Moreover, based upon the Kassover case, a court could well determine that simply turning left into an angle parking

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place is a violation. The question should probably be tested in court to determine if our court would follow the Kassover reasoning.

Additionally, it would appear that the municipality could make such conduct clearly illegal by virtue of an ordinance. As we stated in Op. Atty. Gen. No. 85-32 (April 5, 1985),

[g]enerally, a municipality is recognized as being empowered to regulate the time, place and manner of parking in its streets and public places. McQuillin, Municipal Corporations, Section 24,641 p. 700. Moreover, the authority of a municipality in this State to regulate parking on its streets is expressly provided by statute. See: Sections 5-29-30 and 56-5-710, 1976 Code of Laws. In Hall v. Burg, 206 S.C. 173, 33 S.E.2d 401 (1945), the State Supreme Court recognized that the regulation of traffic, including the parking of automobiles, is a proper exercise of a municipality's police power. See also: 60 C.J.S. Motor Vehicles, Section 28(1), p. 201; City of Orlando v. Cullum, 400 So.2d 513 (1981).

Furthermore, Section 5-7-30 empowers municipalities to adopt ordinances "... not inconsistent with the Constitution and general law of this State, including the exercise of such powers in relation to roads, streets ... law enforcement" Thus, in the absence of a definitive ruling from our Supreme Court regarding the applicability of Section 56-5-2140, the municipality could adopt an ordinance regulating this situation if it sees fit.

This letter is an informal opinion only. It has been written by a designated Assistant Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Very truly yours,



Robert D. Cook
Assistant Deputy Attorney General

RDC/an