

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: 803-734-3970
FACSIMILE: 803-253-6283

November 7, 1994

William McBee Smith, Of Counsel
Spartanburg County Attorney
Suite 415, Montgomery Building
Post Office Box 3545
Spartanburg, SC 29304

Re: Use of Uniform Summons to Enforce State Law

Dear Mr. Smith:

I am in receipt of your letter dated August 22, 1994, wherein you asked if the uniform summons created by South Carolina Code Ann. §56-7-80 (Supp. 1993) can be used for enforcing the State litter laws or the State environmental laws and if not, if the County can enact an ordinance incorporating these state laws in order to use the summons.

Pursuant to §56-7-80 of the Code:

- (A) Counties and municipalities are authorized to adopt by ordinance and use an ordinance summons as provided herein for the enforcement of county and municipal ordinances.

You have inquired about violations of state laws as opposed to violations of existing county or municipal ordinances. Therefore, the uniform summons should not be used. In addition, South Carolina Code Ann. §56-7-10 (1976) specifically provides that the uniform traffic ticket shall be used for violations of South Carolina Code Ann. §16-11-580 and §16-11-700 which are the statutes prohibiting littering. Section 56-7-10 further provides:

REQUEST LETTER

William McBee Smith, Of Counsel
November 7, 1994
Page 2

No other ticket may be used for these offenses. The service of the uniform traffic ticket shall vest all traffic, recorders', and magistrates' courts with jurisdiction to hear and to dispose of the charge for which the ticket was issued and served.

This office does not have enough information to comment on the use of the uniform summons in regard to state environmental laws related to soil erosion and storm-water management. We would need to know the statute number or ordinance number that you are referring to in order to issue an opinion.

In regard to your question as to whether or not the County can enact an ordinance incorporating the state laws in order to use the uniform summons, please find attached a copy of two previous opinions of this office which address the issue and are self-explanatory. This office does not have enough information as to the content of the ordinances proposed or the penalties provided by the existing state laws in question in order to determine whether the matters could fall within the jurisdiction of the municipal courts and therefore cannot issue an opinion at this time.

Consistent with the above, the uniform summons cannot be used for the enforcement of laws other than county and municipal ordinances and whether or not the state laws can be incorporated by ordinance in order to use the summons would depend on the content of the ordinance and penalty provisions of the state statutes in question.

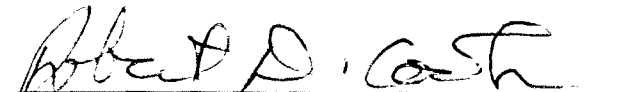
Sincerely,



Barbara M. Heape
Assistant Attorney General

BMH/dlr
Encls.

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions