



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

November 21, 1995

The Honorable Joe Wilson
Senator, District No. 23
Box 5709
West Columbia, South Carolina 29171

Re: Informal Opinion

Dear Senator Wilson:

You have asked us to review certain differences in the amount paid for traffic violations, depending upon whether the offense is committed in the City of Florence or in the unincorporated area of Florence County. You state specifically:

[m]y inquiry is for information about what authority sets fines in a city and what authority does the same in the county, and why does the City of Florence and Florence County, specifically, have such a discrepancy in the amount of fines they charge in traffic violations.

You enclose a copy of a Uniform Traffic Ticket in which an individual was charged by a municipal police officer for violation of S. C. Code Ann. Section 56-5-3810 (improper backing), and paid \$152.00 in fines and assessments. It is your information that the same offense committed in the unincorporated area of the county subjects an individual to a monetary penalty of only \$47.00.

However, I am advised that this is not the case. I am informed that a number of offenses, including improper backing, are part of a penalty schedule of the Florence County Magistrate's Court. This schedule indicates that offenses such as improper backing have a minimum penalty of \$47.00, but much higher amounts can be charged,

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depending upon the facts and circumstances. Thus, the ultimate penalty assessed for such is obviously a matter within the magistrate's discretion.

I am also advised that the policy of the municipal court of Florence County is that \$152.00 is the amount of the bond set for improper backing, subject to reduction by the municipal judge, within his discretion, also depending upon the facts and circumstances. Of course, if the individual does not appear, that individual forfeits such bond in the amount set. If, on the other hand, the individual appears, the magistrate has the discretion to reduce the amount of the fine imposed.

Therefore, while the two systems are not completely alike, in both the city and county the matter of the amount of monetary penalty is ultimately within the discretion of the sentencing judge. Thus, the particular fine involved obviously varies from case to case and it cannot be said that there is a disparity between the city and county.

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/ph