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The State of South Carolina



Office of the Attorney General

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March 14, 1990

The Honorable Irene K. Rudnick
Member, House of Representatives
310-D Blatt Building
Columbia, South Carolina 29211

Dear Representative Rudnick:

In a letter to this Office you stated:

It is my understanding that if a vehicle owner does not return his or her vehicle license tags to the South Carolina Department of Highways and Public Transportation upon the expiration and non-renewal of vehicle insurance, this owner must pay a \$200.00 fine before a new vehicle tag can be reissued.

My question is this: Can the Department collect this fine without due process? The vehicle operator whose tag has expired is not even notified by certified mail much less served a warrant before this very stiff fine is levied.

You questioned whether due process rights are violated by such procedure.

Section 56-10-240 of the Code is pertinent to the situation referenced. Such provision states in part:

(i)f, during the period for which it is licensed, a motor vehicle is or becomes an uninsured motor vehicle, then the vehicle owner immediately shall obtain insurance on the vehicle or within five days after the effective date of cancellation or

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expiration of his liability insurance policy surrender the motor vehicle license plates and registration certificates issued for the motor vehicle... The department may not reissue registration certificates and license plates for that vehicle until satisfactory evidence has been filed by the owner or by the insurer who gave the cancellation or refusal to renew notice to the department that the vehicle is insured. Upon receiving information to the effect that a policy is canceled or otherwise terminated on a motor vehicle registered in South Carolina, the department shall suspend the license plates and registration certificate and shall initiate action as required within fifteen days of the notice of cancellation to pick up the license plates and registration certificate. A person who has had his license plates and registration certificate suspended by the department, but who at the time of suspension possesses liability insurance coverage sufficient to meet the financial responsibility requirements as set forth in this chapter, has the right to appeal the suspension immediately to the Chief Insurance Commissioner. If the commissioner determines that the person has sufficient liability insurance coverage, he shall notify the department, and the suspension is voided immediately. The department shall give notice by first class mail of the cancellation or suspension of registration privileges to the vehicle owner at his last known address. However, when license plates are surrendered pursuant to this section, they must be held at the department office in the county where the person who surrenders the plates resides.

If the vehicle owner unlawfully refuses to surrender the suspended items as required in this article, the department through its designated agents or by request to a county or municipal law enforcement agency may take possession of the suspended license plates and registration certificate and may not reissue the registration until proper proof of liability insurance coverage is provided and until the owner has paid a reinstatement fee of two hundred dollars for the first refusal under this section, and three hundred dollars for each subsequent refusal. A person

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who voluntarily surrenders his license plates and registration certificate before their suspension shall only be charged a reinstatement fee of five dollars.

A separate criminal penalty is provided for the wilful failure to return license plates.

As referenced, notice is to be given by first class mail of the cancellation or suspension of registration privileges. When an owner "unlawfully refuses to surrender", the Highway Department is authorized to take possession of such plates. The statute further provides that in circumstances when the plates have been taken, registration may not be reissued until proof of liability coverage and payment of a reinstatement fee of two hundred dollars. As referenced, if there is a voluntary surrender of plates, the reinstatement fee is limited to five dollars. Furthermore, the statute authorizes the right to appeal the suspension of license plates and registration if the individual "at the time of suspension possesses liability insurance coverage."

If there are any further questions, please advise.

Sincerely,



Charles H. Richardson
Assistant Attorney General

CHR/nnw

REVIEWED AND APPROVED BY:



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