

The State of South Carolina



Office of the Attorney General

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April 16, 1986

The Honorable Dill Blackwell
Member, House of Representatives
335A Blatt Building
Columbia, South Carolina 29211

Dear Representative Blackwell:

In a letter to this Office you indicated that a constituent of yours, Jose Mariano Montoya, has been unable to obtain a South Carolina driver's license. The correspondence which you forwarded to this Office indicates that as the result of a second offense driving under the influence conviction in Florida in November, 1982, Mr. Montoya's privilege to drive in Florida was revoked until November, 1987. As a result of the action in Florida, Mr. Montoya's Texas driver's license was suspended. A letter from the Texas Department of Public Safety implies that until the Florida suspension is cleared, the Texas license will remain cancelled.

In your letter you indicated that Section 56-1-80 of the Code provides that where a driver previously licensed in another state applies for a driver's license in this State, a copy of the applicant's driving record in the other state is requested. The statute provides that "(w)hen received, the record shall become a part of the driver's record in this State with the same force and effect as though entered on the operator's record in this State in the original instance." However, Section 56-1-40 of the Code specifically states in part that the Highway Department

... shall not issue any motor vehicle driver's license under this article to: ... (2) any person whose license has been suspended during such suspension or any person whose license has been revoked....

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It has been the long-standing interpretation of the Highway Department that pursuant to such specific provision, a driver's license cannot be issued in this State to any individual whose driving privileges are at that time under suspension in another State. Obviously one of the reasons behind such a policy is to prevent individuals whose driver's licenses have been suspended in one state from moving to another state simply to obtain a driver's license. Moreover, Section 56-1-40 as compared to Section 56-1-80 is the more specific statute as to the issuance of a driver's license to an individual whose license has been suspended. Therefore, such provision would control. See: Opinion of the Attorney General dated June 11, 1985 and November 7, 1984.

In conclusion, inasmuch as Mr. Montoya's privilege to drive remains suspended in another state, consistent with Section 56-1-40, he could not be issued a driver's license in this State. If there is anything further, please advise.

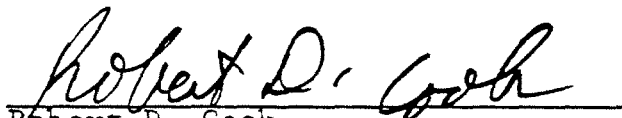
Sincerely,



Charles H. Richardson
Assistant Attorney General

CHR/an

REVIEWED AND APPROVED BY:



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