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May 30, 1985

Thomas E. Lynn, Deputy County Attorney
County of Charleston
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Charleston Heights, South Carolina 29405-7403

Dear Mr. Lynn:

In a letter to this Office you referenced Section 56-3-840 of the 1976 Code of Laws which states:

"(a)ny person who shall drive, move or operate on a highway any vehicle for which a registration and license are required but have not been obtained within thirty days of the date when required is guilty of a misdemeanor."

You have questioned what situations the "when required" includes. You specifically referenced Section 56-3-210 of the 1976 Code of Laws, which relates to newly acquired vehicles and foreign vehicles being moved into this State, and Section 56-3-375 of the 1976 Code of Laws, the statute dealing with registration of automobiles generally. Included with your request letter was a letter from an attorney with the State Department of Highways and Public Transportation commenting on your question.

Prior to being amended as discussed below, Section 56-3-210 provided that:

"(p)ersons newly acquiring such vehicles and owners of foreign vehicles being moved into this State and required to be registered ... may have a period of not exceeding fifteen days in which to register and license them."

REQUEST LETTER

Mr. Lynn
Page Two
May 30, 1985

Such provision should be read in association with Section 56-3-160 of the 1976 Code of Laws which provides for the immediate registration of foreign vehicles moved into this State when the owner is a resident.

Pursuant to Section 56-3-375, an annual system of registration of automobiles of residents of this State is established. Such provision states in part that:

"(a)fter the initial registration period all such vehicles shall be registered and licensed for a period of twelve consecutive months and such registrations shall expire on the last day of the month."

During the current session of the General Assembly, Section 56-3-210 was amended to substitute a thirty day grace period for the fifteen day period previously provided. Such act, R62, was signed by the Governor April 29. In the opinion of this Office, inasmuch as pursuant to this legislation a thirty day grace period is provided for registration by individuals of newly acquired vehicles and by owners of foreign vehicles being moved into this State, the thirty day grace period provided by Section 56-3-840 should be construed as being applicable to vehicles required to be registered annually pursuant to Section 56-3-375. To construe it as being solely applicable to Section 56-3-210 would mean that the recent legislation amending such provision was unnecessary. See, 73 Am.Jur.2d, Statutes, Section 160 p. 364; 1A Sutherland, Statutory Construction, Section 23.16 p. 248.

In a separate question you referenced Section 56-19-50 of the 1976 Code of Laws which provides that:

"(t)he Department ... (the State Department of Highways and Public Transportation ...) may take possession of any certificate of title, registration card, permit, license or registration plate issued by it (a) upon expiration, revocation, cancellation or suspension thereof, (b) which is fictitious or (c) which has been unlawfully or erroneously issued."

You have questioned whether in light of such provision other law enforcement agencies, such as the Charleston County Police, are authorized to seize the items referenced by the above statute.

In examining your question, arguably, it could be asserted that the language of Section 56-19-50, which states that "the

Mr. Lynn
Page Three
May 30, 1985

Department shall take possession" of the referenced items, indicates legislative intent that only the Department of Highways and Public Transportation and their law enforcement agency, the State Highway Patrol should administer such provision. Such Section is also consistent with Section 56-19-20 of the 1976 Code of Laws which states that "(t)he Department is hereby vested with the power and is charged with the duty of observing, administering and enforcing the provisions of this chapter and Chapter 21 of Title 16."

In the opinion of this Office, Section 56-19-50 should not be read so as to restrict its applicability solely to the State Highway Patrol. A careful reading of all provisions of Chapter 19 of Title 56 supports the better construction that other law enforcement agencies, such as the Charleston County Police Department, could take possession of the items listed in the referenced statute. 1/ Such finding is also enforced by what we consider to be the proper construction of the provisions of Section 56-19-20. As referenced, such provision establishes a duty on the Department of Highways and Public Transportation to observe, administer and enforce the provisions of Chapter 19 of Title 56 and Chapter 21 of Title 16. Among the criminal provisions set forth in Chapter 21 of Title 16 are the offenses of using a vehicle without permission (Section 16-21-60), receiving or disposing of a stolen vehicle (Section 16-21-80) and damaging or tampering with a vehicle. (Section 16-21-90). It could not reasonably be argued that only the State Highway Patrol could make arrests for such offenses. Therefore, it does not appear that the provisions of Section 56-19-50 which provides for the Department to take possession of certain items should be construed to preclude other law enforcement agencies, such as the Charleston County Police, from also seizing such items. However, it appears that in all instances any such certificates of title, registration cards, permits, licenses, or registration plates should be turned into the Department. Such agency is the more proper agency to administratively handle all such items after they have been seized.

1/ The provisions of Act No. 190 of 1937 specify the duties of the Charleston County Police. Among the general duties of the County Police is the obligation to "... enforce all laws of the State, with special attention to the traffic laws...."

Mr. Lynn
Page Four
May 30, 1985

If there are any questions concerning the above, please contact me.

Sincerely,

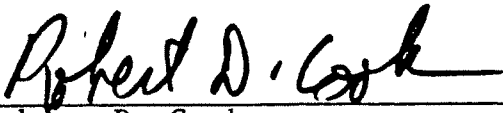


Charles H. Richardson
Assistant Attorney General

CHR/an

cc: Captain A. T. Morris
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REVIEWED AND APPROVED BY:



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