

1984 WL 249844 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 20, 1984

*1 J. Leon Gasque
Captain
S.C. Law Enforcement Division
Post Office Box 21398
Columbia, South Carolina 29221

Dear Captain Gasque:

You have asked our advice concerning use of the uniform traffic citation in charging violations of the child safety restraint law and the new open container law.

Consistently, this office has concluded that the uniform traffic ticket, authorized in [§ 56-7-10 of the Code](#) of Laws (1976 as amended) 'can only be used when charging traffic offenses that are defined or described in Title 56, and particularly those found in Chapter 5 of Title 56.' Op. Atty. Gen., dated August 3, 1982. See also, 1976-77 Op. Atty. Gen., No. 77191, page 146.

The new child safety restraint law is presently codified at [§ 56-5-6410 of the Code](#). While the codification is unofficial since it is contained in the Cumulative Supplement of the Code, we note that the text of the original Child Restraint Act, No. 2 of 1983, designates [§ 56-5-6410 of the Code](#) as the proper Code reference. Accordingly, pursuant to our earlier referenced opinion, the uniform traffic citation could be used in charging for violations of this law.¹

On the other hand, the open container law relating to beer is presently found in Title 61 of the Code. That being the case, we doubt, in view of our earlier opinion that a uniform traffic ticket could be used with respect to this offense; instead, an arrest warrant would probably be necessary. Corrective legislation would probably be necessary to rectify this situation, and we understand that some legislative action is contemplated in that direction.

I trust this adequately responds to your inquiry. With kindest personal regards, I remain,
Very truly yours,

Robert D. Cook
Executive Assistant for Opinions

Footnotes

- 1 We note that Section 2 of the Child Restraint Act states that prior to July 1, 1984, 'any person violating the provisions of Article 47 of Chapter 5 of Title 56 of the Code shall be, when apprehended, issued a warning ticket only.' Moreover, § 56-5-6470 authorizes the issuance of a summons [ticket], but if the person charged is arrested or taken into custody for failure to appear in court in accordance with the summons or for failure to pay a fine imposed by the court upon conviction, then an arrest warrant must be issued.

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