

1982 WL 189412 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 3, 1982

\*1 The Honorable Jackson V. Gregory  
Member  
House of Representatives  
522-C Blatt Building  
Columbia, South Carolina 29211

Dear Representative Gregory:

In a letter to this office you questioned whether an individual may agree to be tried for a traffic violation prior to the elapse of a ten (10) day period following the date of arrest. You particularly referenced [§ 56-5-6220, Code of Laws of South Carolina, 1976](#), as amended, which prohibits the forfeiture of bail posted by a defendant from becoming effective until ten (10) days following an arrest and which further prohibits requiring a defendant to plead prior to the elapse of the ten day period. However, the statute further provides that a defendant may voluntarily enter a plea or forfeit bail within such period.

In the situation you referenced, on the morning following a defendant's arrest, he was taken before the City Recorder and asked whether he wanted to be tried immediately or have a trial set ten days later. You indicated that the defendant agreed to be tried immediately and was thereafter found guilty.

Enclosed please find copies of previous opinions of this office interpreting the referenced statutory provision. The opinion dated November 3, 1977 concerned the particular question of whether a trial date could be set prior to the elapse of the referenced ten day period for the convenience of a person charged. The opinion concludes that such would be permissible but care should be taken to assure that such action is completely voluntary. Therefore, as to your situation, the defendant could have been tried if he voluntarily agreed to such immediate trial.

If there is anything further, please advise.

Sincerely,

Charles H. Richardson  
Assistant Attorney General

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