

1980 S.C. Op. Atty. Gen. 92 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-46, 1980 WL 81929

Office of the Attorney General

State of South Carolina

Opinion No. 80-46

April 30, 1980

***1 SUBJECT: Driving Under the Influence**

(1) § 56-5-2930 and § 56-5-2940 of the Uniform Act Regulating Traffic on Highways is applicable only to those offenses of driving while under the influence of alcoholic beverages which occur within the boundaries of the State of South Carolina, or within the political subdivisions and municipalities herein.

TO: Randolph Murdaugh, Jr.
Solicitor
Fourteenth Judicial Circuit

QUESTIONS:

1. May an individual be tried for second offense driving of a motor vehicle while under the influence of alcoholic liquor (DUI) when the first offense has taken place in North Carolina?

STATUTES AND CASES:

South Carolina Code of Laws (1976). § 56-5-10, § 56-5-2930, § 56-5-2940

DISCUSSION:

1. [Section 56-5-10, et. seq., Code of Laws of South Carolina \(1976\)](#) also known as the Uniform Act Regulating Traffic on Highways, is a legislative provision specifically enacted by the General Assembly to apply solely to the State of South Carolina and all of the political subdivisions and municipalities therein.

The offenses of which you are specifically concerned are embodied within [Sections 56-5-2930 and 56-5-2940 of the Code of Laws of South Carolina](#) (1976). Under [Section 56-5-2930](#), the prohibitive conduct is defined, and the penalty for violation of the said provision is embodied within [Section 56-5-2940](#).

[Section 56-5-2930](#) reads as follows:

‘It is unlawful for any person who is a habitual user of narcotic drugs or any person who is under the influence of intoxicating liquors, narcotic drugs, barbituates, paraldehydes or drugs, herbs or any other substance of like character, whether synthetic or natural, to drive any vehicle within this State.’

The plain meaning of the statute is that those persons who operate a vehicle within the State of South Carolina fall within the scope of the class to which the statute is applicable. The statute does not extend to those persons who are not operating a motor vehicle within the State of South Carolina.

[Section 56-5-2940](#) provides, in pertinent part, that:

'Any person violating any provision of [§ 56-5-2930](#) shall, upon conviction, entry of a plea of guilty or of nolo contendere or forfeiture of bail, be punished in accordance with the following:

- (1) By a fine of not less than fifty dollars nor more than one hundred dollars or imprisonment for not less than ten days nor more than thirty days, for the first offense;
- (2) By a fine of not less than one thousand dollars or imprisonment for one year, or both, for the second offense;
- (3) By a fine of not less than two thousand dollars or imprisonment for three years, or both, for the third offense; and
- (4) By a fine of not less than three thousand dollars or imprisonment for four years, or both, for the fourth offense or any subsequent offense.

For the purpose of this chapter any conviction, entry of a plea of guilty or forfeiture of bail for the violation of any law or ordinance of this State or any municipality of this State that prohibits any person for operating a motor vehicle while under the influence of intoxicating liquor, drugs or narcotics shall constitute a prior offense for the purpose of any prosecution for any subsequent violation hereof. But only those offenses which occurred within a period of ten years including and immediately preceding the date of the last offense shall constitute prior offenses within the meaning of this section.'

*2 The plain language of the statutory provision does not encompass an individual's record which he may have incurred within another state jurisdiction. The provision specifically states that 'any prior conviction, entry of a plea of guilty or forfeiture of bail for the violation of any law or ordinance of this State or any municipality of this State . . . shall constitute a prior offense for the purpose of any subsequent violation thereof.' Consequently, the consideration of an offense committed within another jurisdiction would not be proper under [Section 56-5-2940](#).

CONCLUSION:

It is the Opinion of this Office that under the Uniform Act Regulating Traffic on Highways, [Section 56-5-10](#), et. seq., of which [Sections 56-5-2930](#) and [56-5-2940](#) are subsections, an individual may only be tried under the Act for traffic violations occurring within the State of South Carolina. The language of [Sections 56-5-2930](#) and [56-5-2940](#) specifically provide that the legislation is applicable only to those offenses which occur within the boundaries of the State, or within the political subdivision and municipalities of the State. Consequently, a prior DUI conviction of an individual in another state jurisdiction would not properly qualify as a conviction under [Sections 56-5-2930](#) and [56-5-2940](#), [Code of Laws of South Carolina \(1976\)](#).
Sincerely,

Wayne G. Carter, Jr.
Staff Attorney

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