

1980 WL 120780 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 22, 1980

\*1 Mr. Foster M. Routh  
Assistant Director  
South Carolina Commission on Alcohol and Drug Abuse  
2700 Forest Drive  
Columbia, South Carolina 29204

Dear Mr. Routh:

You have recently asked the opinion of this Office concerning the legality of the South Carolina Commission on Alcohol and Drug Abuse's proposed actions in requiring differing responses (i.e., placement in different level programs requiring varying lengths of participation) for persons applying for provisional drivers' licenses under [§ 56-1-1310 et seq., CODE OF LAWS OF SOUTH CAROLINA \(1976\)](#), as amended. This placement would be based upon an evaluation of the participant's depth of involvement with alcohol rather than an automatic response to a first offense DUI conviction.

[Section 56-1-1310 et seq., CODE OF LAWS OF SOUTH CAROLINA \(1976\)](#), as amended, outlines the procedure whereby an individual whose license was suspended upon conviction of first offense DUI may obtain a provisional driver's license through successful completion of an alcohol traffic safety school certified by SCCADA, among other requirements. The first offender may voluntarily apply for the provisional driver's license. [§ 56-1-1320](#). He may, of course, elect not to apply and, thus, his license is suspended for the entire period. Obtaining the provisional driver's license in no way bears upon the fact of conviction for a criminal offense. It is merely an administrative method whereby first offenders may obtain provisional reinstatement of their driving privileges. The legislature clearly places the responsibility for certification of the alcohol traffic safety school on the SCCADA. This statutory authority granted SCCADA by [§ 56-1-1330](#) appears sufficiently broad to permit SCCADA to develop a program of the nature proposed.

In addition, the proposed program does not appear to violate equal protection of the laws. 'Unless some suspect criteria, such as race, is involved, it is elementary that the equal protection provisions are satisfied if the classification bears a reasonable relationship to a legitimate state interest and the constituents of each class are treated alike under similar circumstances and conditions.' [Bauer v. South Carolina State Housing Authority, 271 S.C. 219, 246 S.E.2d 869 \(1978\)](#). In the proposed program, the possibility for reinstatement of driving privileges is available to all applicants who successfully meet the requirements. The state possesses a legitimate interest in protecting the public from those drivers who demonstrate a greater dependence on alcohol, and thus a greater potential for recidivist behavior. The fuller screening given this class of applicants through a longer period of observation and training to insure their successful completion of the alcohol traffic safety school is rationally related to the legitimate state goal of insuring the applicant is qualified to be relicensed to operate a motor vehicle.

In conclusion, the SCCADA appears to have the authority to institute a program of the nature proposed.

Very truly yours,

\*2 Edwin E. Evans  
Assistant Attorney General

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