

1977 S.C. Op. Atty. Gen. 175 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-234, 1977 WL 24576

Office of the Attorney General

State of South Carolina

Opinion No. 77-234

July 25, 1977

*1 TO: Honorable Murray White
York County Magistrate

QUESTION PRESENTED:

Do private security guards as defined in Section 40-17-130, Code of Laws of South Carolina, 1976, have the power and authority to make arrests for traffic violations, such as speeding?

CITATION OF AUTHORITIES:

Section 40-17-130, Code of Laws of South Carolina, 1976; Section 56-5-730, Code of Laws of South Carolina, 1976; Section 56-5-1520, Code of Laws of South Carolina, 1976; Section 17-13-30, Code of Laws of South Carolina, 1976; Section 23-5-40, Code of Laws of South Carolina, 1976.

DISCUSSION:

Under Section 40-17-130, Code of Laws of South Carolina, 1976, private security guards, as defined by this Section, are granted the same powers and authority which Sheriffs have to arrest persons violating or charged with violating any of the criminal statutes of this State. In reference to the required obedience to traffic laws, Section 56-5-730, Code of Laws of South Carolina, 1976, states that:

‘It is unlawful and, unless otherwise declared in this Chapter with respect to particular offenses, it is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this Chapter.’

Thus, unless otherwise indicated, violations of traffic laws are misdemeanors. More particularly, as to the reference to speeding, Section 56-5-1520, Code of Laws of South Carolina, 1976, states that any person violating the speed limits as established within this Section shall be deemed guilty of a misdemeanor.

Furthermore, Section 17-13-30, Code of Laws of South Carolina, 1976, states:

‘The sheriffs and deputy sheriffs of this State may arrest without warrant any and all persons who, within their view, violate any of the criminal laws of this State if such arrest be made at the time of such violation of law or immediately thereafter.’

Therefore Sheriffs would have the power to arrest for traffic violations, considered to be misdemeanors, committed in their presence.

Although there is no particular Code Section which states specifically that Sheriffs have the power and authority to arrest for violations of laws regulating highway traffic and motor vehicles, Section 23-5-40, Code of Laws of South Carolina, 1976, states in part that:

'The patrolmen and officers of the South Carolina Highway Patrol shall patrol the highways of the State for the purpose of enforcing the laws of the State relative to highway traffic and motor vehicles. Such officers and patrolmen shall have . . . the same power as . . . sheriffs to arrest without warrants and to detain persons found violating or attempting to violate any laws of the State relative to highway traffic and motor vehicles.'

Therefore there is statutory authority indicating that Sheriffs have the power to arrest for traffic violations.

CONCLUSION:

It is the opinion of this Office that inasmuch as private security guards, as earlier defined, have the same power of arrest as Sheriffs, they would also be permitted to make arrests for traffic violations. It should be noted that of course they have this power of arrest only on property they are hired to patrol, guard, or render such similar service.

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