

1976 WL 30686 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 26, 1976

***1 In Re: Driver Licenses, Restoration Under Section 46-185, 1962 Code of Laws of South Carolina**

Honorable David W. Keller, Jr.
Member
House of Representatives
State House
Columbia, South Carolina

Dear Mr. Keller:

You have inquired whether or not Section 46-185 [1962 Code of Laws of South Carolina] permits the South Carolina State Highway Department to restore a driver license revoked for a period of five years [reckless homicide, Section 46-341] after one year, after investigation resulting in determination that it will be safe to restore the driving privilege.

When present 46-185 was initially enacted [1930], the crime of reckless homicide did not exist, and there was no provision for a five-year revocation of a driver license. Such legislation [reckless homicide and five-year suspension] were created by statute in 1949 [1949 (46) 466].

It is the opinion of this Office that the language upon which you rely [2nd paragraph of Section 46-185] means that when a license has been revoked for a period of one year, it may not be restored in less than one year - - - and, then, only after an investigation to determine whether or not the licensee is a safe driver; and that Section 46-185 does not permit restoration of a driver license under five-year revocation before the lapse of a five-year period.

I realize that Section 46-185 could be read to support your position, but I do not feel that such construction would be reasonable.

Should you wish to litigate the question, this Office will cooperate with you fully in attempting to get a quick hearing before a circuit judge and a final judicial determination of the question as soon as possible. I suggest that a petition and rule to show cause might be the simplest and most uncomplicated way in which to get the matter heard.

Yours very truly,

Joseph C. Coleman
Deputy Attorney General

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