

1974 WL 27909 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 8, 1974

***1 In Re: North Carolina Restricted Driver Licenses, Use of in South Carolina**

Colonel P. F. Thompson
Director of Law Enforcement
State Highway Department
Post Office Box 191
Columbia, South Carolina 29202

Dear Colonel Thompson:

As you know, North Carolina law permits issuance of restricted driver licenses to holders of North Carolina licenses convicted of DUI in that State and whose licenses have been suspended as a result.

Heretofore, this Office has advised that such licenses could not be used in South Carolina during the period of suspension, notwithstanding that the licensee retained a restricted driving privilege in his home State. Such opinion was based on the fact that Section 46-179, Code of Laws of South Carolina, under a construction of the Section made at that time, required the Department to suspend the privilege to operate in this State on a foreign-state license when the holder of such license was convicted of DUI in another state. A foreign-state driver is permitted to operate a motor vehicle in South Carolina for a restricted period of time, not as a matter of right flowing from the fact that he possesses a valid home-state license, but as a privilege accorded under provisions of Section 46-153(2), 1962 Code of Laws of South Carolina. That privilege may be withdrawn under certain conditions without regard to the status of the nonresident's license in his home state.

On July 18, 1974, by Joint Resolution 1421, the General Assembly directed the Highway Department to construe the word 'may' in Section 46-179 as permissive rather than mandatory, thereby, in the opinion of this Office, rendering such Section invalid as permitting unrestricted discrimination by the Department in suspending or revoking South Carolina driver licenses, and out-of-State driving privileges upon conviction for DUI in other states. [Op. S. C. Atty. Gen. to Hon. S. N. Pearman dated August 6, 1974.

In view of the foregoing, this Office now advises that restricted driver licenses from North Carolina should be honored under our reciprocal agreement with the other states to permit the holder thereof to operate a motor vehicle in this State insofar as that license permits him to drive in his home state - - notwithstanding the fact that his license is under partial suspension in North Carolina.

This results in a situation in which North Carolina drivers may operate in South Carolina after DUI conviction in their home State, whereas South Carolina drivers may not operate either at home or in any other state during the period of suspension following conviction for DUI in South Carolina. Without Section 46-179, however, there is no authority for the revocation of a foreign-state driving privilege for DUI conviction in another state.

Yours very truly,

Joseph C. Coleman
Deputy Attorney General

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