

1974 WL 27466 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 1, 1974

***1 In Re: Driving Under Suspension**

Honorable Emory P. Austin
Director
Motor Vehicle Division
State Highway Department
Post Office Box 1498
Columbia, South Carolina 29216

Dear Mr. Austin:

You have inquired as to the penalty for the violation of driving under suspension when the license is under suspension because of provisions of the Safety Responsibility Act.

Section 46-710, 1962 Code of Laws of South Carolina, provides a penalty of \$100 or 30 days for driving under suspension or revocation when such suspension or revocation was effected under the provisions of the Motor Vehicle Safety Responsibility Act, i.e., Section 46-702, et seq., 1962 Code of Laws of South Carolina.

Section 46-192.1, 1962 Code of Laws of South Carolina, as amended, provides greater penalties for second and subsequent offenses of driving while the defendant's license or privilege is cancelled, suspended or revoked.

Since there is a specific provision [Section 46-710] providing a penalty for driving under suspension because of the Safety Responsibility Act, whereas the general law relating to driving under suspension [Section 46-192.1] provides general penalties for driving under suspension, it is my opinion that the specific provision of Section 46-710 should be applied in those cases involving driving under suspension which were effected under the Safety Responsibility Act. This interpretation is in accord with a generally recognized principle of statutory construction that a specific provision will prevail over a general provision of law even though the general provision might have been enacted subsequent to the specific provision. In addition, we are dealing with a criminal matter, and when criminal statutes are construed, it is the general rule of construction that they must be construed liberally in favor of the defendant and strictly against the State.

Although it is my opinion that the General Assembly probably overlooked the existence of Section 46-710 when the latest amendment to Section 46-192.1 was enacted, this Office is of the opinion that violations involving suspensions under the Safety Responsibility Act should be governed by the provisions of Section 46-710.

It is the opinion of this Office that driving under suspension under Section 46-710 should be counted under the habitual offender act.

Yours very truly,

Joseph C. Coleman
Deputy Attorney General

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