

1974 S.C. Op. Atty. Gen. 327 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3894, 1974 WL 21391

Office of the Attorney General

State of South Carolina

Opinion No. 3894

November 22, 1974

***1 In Re: Municipalities, Traffic Offenses, Setting of Bond by Arresting Officer**

Honorable Frank D. Lipsey
Recorder
Town of Jonesville
Jonesville, South Carolina

Dear Mr. Lipsey:

You have inquired as to the authority of a municipal police officer to accept cash bond in a traffic case in lieu of arresting the offender and bringing him before the court or placing him in jail.

Strictly speaking, a police officer has no right to release a person arrested for a traffic violation except as provided by statute. I am aware of no statute that permits such action except the statutes affecting the State Highway Patrol, the Wildlife Division, and the Richland County Sheriff's Department.

Notwithstanding the foregoing, however, there is nothing to prohibit a police department from authorizing its personnel to issue courtesy uniform traffic tickets instead of placing traffic offenders under custodial arrest. It has been held by the South Carolina Supreme Court that the setting of bond and release of a traffic offender by a police officer upon the posting of a cash appearance bond, while not authorized by statute, is not something of which the offender might later complain—since it is done for his benefit.

It is the opinion of this Office that the governing body of a municipality [council] may authorize its police officers to issue courtesy uniform traffic tickets when custodial arrest is not advised, and that there is no violation of law involved if a council wishes to authorize acceptance of cash bail on-the-road by its police officers in such circumstances.

Absent statutory authorization, it is suggested that the courtesy ticket procedure might be the most workable plan if custodial arrest in every case is not desired.

Yours very truly,

Joseph C. Coleman
Deputy Attorney General

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