

1973 S.C. Op. Atty. Gen. 113 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3506, 1973 WL 20967

Office of the Attorney General

State of South Carolina

Opinion No. 3506

April 3, 1973

***1 Re: No. 250—Residence**

Ronald C. Scott
Office of Admissions
University of South Carolina
Columbia, South Carolina 29208

Dear Mr. Scott:

In answer to your request for an opinion on residence as it relates to tuition requirements at State institutions and to requirements for licensing drivers in South Carolina, the requirements for each is different in that the requirements for residence for tuition purposes is durational, as opposed to those for licensing of drivers. Section 22–2.2(B)(a), Code of Laws of South Carolina as amended, requires a student to complete a twelve-month residency period before qualifying for in-State tuition fees: ‘Persons who have been domiciled in South Carolina for a period no less than twelve months with an intention of making a permanent home therein . . . may be considered South Carolina residents for tuition and fee purposes at State institutions . . .’ On the other hand, Section 46–153 in relation to 46–152, Code of Laws of South Carolina, requires a person to obtain a South Carolina Drivers License as soon as he forms an intent to reside (be domiciled) in South Carolina before driving in the State. Section 46–153 specifically states: ‘A person may not claim nonresidence exemption under this provision who for all other intents and purposes has or may remove his residence into the State . . .’ Therefore, a person would be a residence for licensing purposes twelve months before being a resident for tuition purposes because of the durational residency requirement of Section 22–2.2(B)(a).

In addition, you wish an opinion on the authority of an institution to review copies of drivers licenses at the State Highway Department. While such records would appear to be public information under the Freedom of Information Act, enacted in 1972, and even earlier under Section 46–717, Code of Laws of South Carolina, the burden is on the student under Section 22–2.2(B)(a) to prove residence. In light of this burden and the penalty provided for in Section 22–2.2, I recommend that the institution have the student himself supply a copy of his drivers license.

Please contact me if I can provide any further assistance.

Sincerely,

Hardwick Stuart, Jr.
Assistant Attorney General

1973 S.C. Op. Atty. Gen. 113 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3506, 1973 WL 20967