

1973 S.C. Op. Atty. Gen. 215 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3568, 1973 WL 21025

Office of the Attorney General

State of South Carolina

Opinion No. 3568

July 12, 1973

***1 In Re: Speeding, Requirement that Rate of Speed be Noted on Traffic Summons**

Colonel P. F. Thompson
Commanding Officer
State Highway Patrol
Columbia, South Carolina 29202

Dear Colonel Thompson:

You have inquired as to the effect of the following language from Section 46–361, 1962 Code of Laws of South Carolina, as amended, when a change of excessive speed is made in a wreck case, i.e. when the exact speed of the subject vehicle has not been clocked or recorded:

‘Provided, that any citation for violating the speed limits issued by any authorized officer shall note thereon the rate of speed for which such citation is issued.’

A basic rule of statutory construction is that the language of any law must be given a meaning within the intent of the General Assembly, and when such language is ambiguous or unclear, facts of general public knowledge, inter alia, may be taken into consideration in arriving at legislative intent . . . if such language, considered with such facts, will support a reasonable construction.

It is well known that in most wreck cases the evidence available, although sufficient to indicate excessive speed, cannot support a finding that the subject vehicle was traveling at any particular rate of speed. The General Assembly was aware of this fact when it enacted the quoted language. It can be concluded, then, that it was not intended that the traffic officer note the rate of speed on the traffic ticket when he has no way of determining that speed. Such a construction would be that it was intended by the Legislature to require the impossible.

It is the opinion of this Office that Section 46–361 requires notation of the rate of speed only when that speed has been clocked by speedometer or other mechanical means.

The penalties set forth in Section 46–361(c), as amended (1970), are for ‘violating the speed limits herein established’, and not for driving too fast for conditions, the offense set forth in Section 46–361(a). The penalty for the latter offense is set out in Section 46–689.

Yours very truly,

Joseph C. Coleman
Deputy Attorney General

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