

1973 WL 26907 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 3, 1973

\*1 Sgt. C. L. Moon  
Route 4  
Strafford Drive  
Lancaster, S. C. 29720

Dear Sgt. Moon:

You have inquired as to how long a person arrested for the offense of driving under the influence must be held in jail before release. This office has expressed on several occasions the opinion that a jailor is within his rights in refusing to release a person who is apparently under the influence of intoxicants. This opinion would apply whether or not such person is released to a sober reasonable person. The reason for this is the possibility that the releasing authority may have some legal responsibility for the persons subsequent actions which are a result of his intoxication.

It is, therefore, the opinion of this office that the law does not require the release from jail of any prisoner who, due to his level of intoxication, is not in condition to provide for his own safety or the safety of others.

I hope that the above is sufficient to answer your inquiry. If I can be of further assistance, please feel free to contact me.

Very truly yours,

Hutson S. Davis, Jr.  
Assistant Attorney General

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