

1973 S.C. Op. Atty. Gen. 330 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3646, 1973 WL 21097

Office of the Attorney General

State of South Carolina

Opinion No. 3646

October 18, 1973

***1 In re: DUI, Out-of-State Nolo Contendere Plea, Effect on South Carolina Driver License**

Honorable S. N. Pearman
Chief Highway Commissioner
State Highway Department
1100 Senate Street
Post Office Box 191
Columbia, South Carolina 29202

Dear Mr. Pearman:

You have inquired as to the proper action that should be taken by the Department relative to a South Carolina driver license upon receipt of notice of entry of plea of nolo contendere by the licensee to a charge of DUI in another state.

Section 46–151(11), 1962 Code of Laws of South Carolina, reads:

‘Conviction.’ Shall include the entry of any plea of guilty, the entry of any plea of nolo contendere and the forfeiture of any bail or collateral deposited to secure a defendant's appearance in court.

Section 46–179, 1962 Code of Laws of South Carolina, which is a part of Chapter 4, reads:

The Department may suspend or revoke the license of any resident of this State or the privilege of a nonresident to drive a motor vehicle in this State upon receiving notice of the conviction of such person in another state of an offense therein which, if committed in this State, would be grounds for the suspension or revocation of the South Carolina license.

It has been the expressed opinion of this Office for some time that the word ‘may’ in Section 46–179 must be read as ‘shall’ in order to preserve the validity of the Section from a constitutional ‘equal protection’ attack.

In view of the foregoing, it is the opinion of this Office that the Department is required to suspend the license of a resident of this State who is convicted of, pleads guilty to, enters plea of nolo contendere to, or forfeits bond or bail with reference to, a charge of DUI in another state.

Very truly yours,

Joseph C. Coleman
Deputy Attorney General

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