

1973 WL 27720 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 25, 1973

*1 Sergeant Jeffcoat
Lexington County Sheriff's Office
105 South Lake Drive
Lexington, South Carolina 29072

Dear Sergeant Jeffcoat:

You have requested this office advise you as to how long an individual may be held in jail after being arrested for drunk driving.

The statutes are silent in this matter, and our Supreme Court has apparently not passed upon this specific question. It is the expressed opinion of this office however that a jailor who has custody of an intoxicated prisoner is entirely within his rights refusing to release such prisoner on bond or bail, even to a sober, responsible person, absent a court order requiring such release, until such prisoner is apparently in condition to provide for his own safety. There is justification for this view, in that it is conceivable that the releasing authority, whether he be judge or jailor, might have some legal responsibility if an intoxicated person were released and injured himself or others as a result of his intoxication. It should be noted however, that there would be obvious exceptions to a rule of none release of jailed, intoxicated persons, such as where valid medical reasons would dictate such release.

In summary it is a matter within the discretion of the confining authority as to whether an intoxicated person should be released, even to a responsible person.

I trust that this has been sufficient to answer the question which you posed, if we may be of any further assistance please do not hesitate to call or write.

Very truly yours,

Timothy G. Quinn
Senior Assistant Attorney General

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