

1972 S.C. Op. Atty. Gen. 83 (S.C.A.G.), 1972 S.C. Op. Atty. Gen. No. 3279, 1972 WL 20423

Office of the Attorney General

State of South Carolina

Opinion No. 3279

March 10, 1972

*1 Lieutenant Earl Bennett
South Carolina Highway Patrol
P. O. Box 191
Columbia, South Carolina 29202

Dear Lt. Bennett:

You have inquired of this office as to whether a City Recorder has the jurisdiction to dispose of cases of driving under the influence and other offenses under Chapter 7 of the Uniform Act Regulating Traffic on the Highway, Section 46–201 through Section 46–692 of the South Carolina Code of Laws Annotated (1962), where there is no municipal ordinance enacted to cover such violations. You have inquired further that if the City Recorder does have the jurisdiction to hear such cases, does he have the authority, power or jurisdiction to reduce the charge of driving under the influence under Section 46–343 to reckless driving. The jurisdiction for municipal courts is delineated under Section 15–1010 of the South Carolina Code as the same as that for a Magistrate Court in criminal cases, and Section 46–685 further clarifies their jurisdiction with regard to traffic cases.

It is the opinion of this office that Section 46–685 confers the required jurisdiction upon the City Recorder to try and determine cases arising under the Uniform Act Regulating Traffic on the Highways. Inasmuch as Sections 46–685 and 15–1010 also provide that the trial jurisdiction in such cases shall be the same as that of a Magistrate, it follows that the Recorder, just as the Magistrate, does not have the power or authority to reduce a charge of driving under the influence to one of reckless driving, as reckless driving is not a lesser included offense within the charge of driving under the influence. 1969 Atty. Gen. Ops. 155.

It is hoped that the foregoing satisfactorily answers your inquiry.

Yours very truly,

G. W. Thomason
Assistant Attorney General

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