



HENRY McMASTER  
ATTORNEY GENERAL

April 22, 2010

The Honorable Veronica G. Small  
Municipal Court Judge  
City of Charleston  
P. O. Box 80637  
Charleston, South Carolina 29416

Dear Judge Small:

In a letter to this office you referenced a prior opinion of this office dated March 22, 2005 regarding the applicability of the Nonresident Violators Compact (NRVC) when a driver appears in court, is fined, but subsequently fails to pay the fine. The statutes applicable to the NRVC are set forth in S.C. Code Ann. §§ 56-25-10 et seq. The opinion concluded that the NRVC would be applicable since the driver did not fully comply with the traffic citation by paying the required fine.

Referencing such, you have raised three questions:

1. Does failure to pay a traffic ticket as identified in Section 56-25-20 constitute a chargeable criminal violation?
2. Does a police officer have the authority to arrest or cite for a violation of Section 56-25-40(b) of the NRVC, an individual with an unpaid traffic ticket from any county in South Carolina, and charge the individual with the offense entitled "NRVC", the probable cause being that the person has an outstanding unpaid traffic ticket?
3. If the answer to Question 2 is yes, how many times may a defendant be charged with NRVC for failure to pay the same outstanding traffic ticket?

Section 56-25-20 states as follows:

[w]hen a South Carolina court or the driver licensing authority of a compact jurisdiction notifies the Department of Motor Vehicles that a resident of South Carolina or person possessing a valid South Carolina driver's license has failed to comply with the terms of a traffic citation or an official Department of Natural

Resources summons for a littering violation issued in this or any compact jurisdiction, the department may suspend or refuse to renew the person's driver's license if the notice from a South Carolina court or the driver licensing authority of a compact jurisdiction is received no more than twelve months from the date on which the traffic citation or an official Department of Natural Resources summons for a littering violation was issued or adjudicated. The license must remain suspended until satisfactory evidence has been furnished to the department of compliance with the terms of the citation or an official Department of Natural Resources summons for a littering violation and any further order of the court having jurisdiction in the matter and until a reinstatement fee as provided in Section 56-1-390 is paid to the department. A person whose license is suspended under this section is not required to file proof of financial responsibility as required by the Financial Responsibility Act (Chapter 9 of Title 56) as a condition for reinstatement.

Upon notification by a South Carolina court that a nonresident licensed in a compact jurisdiction has failed to comply with the terms of a traffic citation or an official Department of Natural Resources summons for a littering violation, the department shall notify the licensing authority in the compact jurisdiction for such action as appropriate under the terms of the compacts.

Section 56-25-30 provides that

[a]ny law enforcement officer who issues to a person a uniform traffic citation may, in addition to any other action authorized by law and subject to the exceptions noted in this section, allow the person to proceed without first either having to post bond or appear before a magistrate, recorder or other judicial officer if the person accepts the citation. Such acceptance shall constitute the person's recognizance to comply with the terms of the citation.

When issuing a citation for a traffic violation to a nonresident who is licensed by a compact jurisdiction, if the law enforcement officer receives the person's recognizance as above-described, the officer shall not, subject to the exceptions noted below, require the person to post bond but shall allow the person to proceed.

Section 56-25-40(b) states that “[a]ny person who willfully fails to appear before the court as required by a uniform traffic citation without having posted such bond as may be required by the court or been granted a continuance by the court shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than two hundred dollars or imprisoned not more than thirty days.”

As to your question of whether the failure to pay a traffic ticket as identified in Section 56-25-20 constitute a chargeable criminal violation, in the opinion of this office, such provision does

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not establish a separate criminal violation. Instead, consistent with your second question, in the opinion of this office, Section 56-25-40(b) establishes the criminal offense for purposes of the NRVC. Again, such provision states that “[a]ny person who willfully fails to appear before the court as required by a uniform traffic citation without having posted such bond as may be required by the court or been granted a continuance by the court shall be deemed guilty of a misdemeanor...” Therefore, there would be probable cause for an arrest as to a South Carolina driver who “willfully fails to appear before the court as required by a uniform traffic citation without having posted such bond...or been granted a continuance.” As to your question of how many times may a defendant be charged with NRVC for failing to pay the same outstanding traffic ticket, in the opinion of this office, there may be only one violation linked to the failure to appear in court as required by the traffic ticket without having posted bond.

If there are any questions, please advise.

Very truly yours,

Henry McMaster  
Attorney General



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Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



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