



ALAN WILSON
ATTORNEY GENERAL

April 5, 2011

Mr. Kevin A. Shwedo
Executive Director
South Carolina Department of Motor Vehicles
P.O. Box 1498
Blythewood, SC 29016

Dear Director Shwedo:

We are in receipt of your letter regarding questions which have arisen at the Department of Motor Vehicles ("DMV") concerning the implementation of Act 277 of 2010, which requires the Department of Motor Vehicles to place an "identifying code" on the back of the driver's licenses of persons convicted of a "crime of violence."

Your first question asks whether the identifying code applies to *convictions* that occur on or after July 1, 2011, the effective date of the Act, or only *offenses* that occur on or after the effective date. Section 1 of Act 277 specifically states that the Act is triggered "[w]hen a person is **convicted of or pleads guilty or nolo contendere** to a crime of violence as defined in Section 16-23-10(3) on or after July 1, 2011 . . ." (emphasis added) Your letter expressed concern that the "savings clause" in section 6 of the Act may modify the meaning of the plain language of the statute. In the opinion of this Office, the standard "savings clause" language in Section 6 of the Act ensures that any repeal or amendment by the Act of any law does not affect cases which are pending on July 1, 2011. However, the savings clause does not alter the specific language of the Act. Accordingly, the identifying code applies to persons who are convicted of or plead guilty or nolo contendere to a crime of violence as defined in section 16-23-10(3) of the South Carolina Code on or after July 1, 2011.

Your second question requests an opinion as to whether using the three letters ("CVO") for the identifying code meets the requirements of the statute. According to Section 2(A) of the Act, "'identifying code' means a symbol, number, or letter of the alphabet developed by the department to identify a person convicted of or pleading guilty or nolo contendere to a crime of violence . . . on or after July 1, 2011." As stated in the Act, it is the responsibility of the DMV to develop the identifying code in accordance with the Act. It is the opinion of this Office that the

development of said code is an administrative function of the DMV and not a question of law appropriate for an opinion of this Office. However, this Office notes that the plain words of the Act define "identifying code" as "a symbol, number, or letter of the alphabet." See Act 277, § 2(A) (emphasis added).

Your third question addresses whether the identifying code will be public information the DMV would be required to reveal in response to public or media requests pursuant to the Freedom of Information Act (S.C. CODE ANN. § 30-4-10, *et seq.*). The South Carolina Freedom of Information Act provides:

The General Assembly finds that it is vital in a democratic society that public business can be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formulation of public policy.

S.C. CODE ANN. § 30-4-15. Any exemptions from or exceptions to the Act's applicability are to be narrowly construed, and this Office has strongly favored a policy of disclosure should any doubt exist in that regard. *E.g.*, Op. S.C. Att'y Gen. (January 24, 1990). Although this Office recognizes that the Freedom of Information Act specifically prohibits the sale and/or disclosure of certain information contained in a person's driver's license or special identification card, *see* S.C. CODE ANN. § 30-4-160 and § 30-4-165, these code sections refer to personal information, such as height, weight, race, social security numbers, photographs, and signatures. In contrast, the "identifying code" simply discloses that a person has been convicted of or pled guilty or nolo contendere to a violent crime. This Office has previously opined that "convictions and sentences are matters of public record specifically subject to disclosure under section 30-4-50(3) of the Code." Op. S.C. Att'y Gen. (January 24, 1990). Accordingly, as this Office is unaware of any specific exemption or exception which would apply to the "identifying code" at issue and pursuant to our policy of strongly favoring disclosure in cases of doubt, *e.g.*, Op. S.C. Att'y Gen. (May 17, 2010), it is our opinion that the DMV would be required to disclose the identifying code to the public.

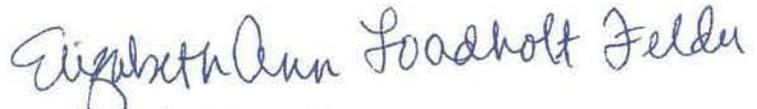
Conclusion

First, pursuant to the plain language of the statute, it is the opinion of this Office that the "identifying code" to be placed on a driver's license or special identification card applies to persons who have been *convicted* (or pled guilty or nolo contendere) to a crime of violence as defined by S.C. CODE ANN. § 16-23-10(3) on or after July 1, 2011. Further, the development of said code is an administrative function of the DMV and not a question of law to be answered by

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this Office. Finally, it is our opinion that the DMV would be required to disclose the identifying code to the public pursuant to the Freedom of Information Act.

Very truly yours,



ElizabethAnn L. Felder
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General