

6375 Letters



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

January 19, 1998

Sergeant Mark Mims  
Police Department, City of Florence  
City-County Complex, JJ  
180 N. Irby Street  
Florence, South Carolina 29501-3456

Re: Informal Opinion

Dear Sergeant Mims:

You seek an opinion regarding certain roadways a portion of which are in the Florence City limits. By way of background, you state the following:

[t]he City of Florence has several roadways that are partially in the city limits with some areas not being included in the incorporated area. (I.e. Hoffmeyer Road is primarily in the city limits of Florence. However, there is a stretch, approximately 1/2 mile long, that is not in the city limits but is bordered on both ends by the city limits.) Basically, I need to know if this agency has jurisdiction to enforce State of South Carolina Traffic Laws within this type of area. Many of these areas cause problems for us, because the SC Highway Patrol refuses to work accidents in these areas because they are citing these areas are under City of Florence Police Department jurisdiction. The problem primarily occurs regarding enforcement in wreck situations (i.e. DUI and DUS).

Law / Analysis

S.C. Code Ann. Sec. 5-7-110 bestows upon municipal police officers the authority to "exercise their powers on all private and public property within the corporate limits of

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the municipality ..." S.C. Code Ann. § 17-13-40 further provides that "police authorities of all towns and cities of this State may make arrests of all offenders against municipal ordinances and statutes of this State ...".

There are several possible statutory solutions to your problem. S.C. Code Ann. Sec. 5-7-155 provides as follows:

[i]f any portion of a street or highway is within the boundary of a municipality, the right of way of the street or highway not within the municipal boundary but touching the boundary is nevertheless considered to be within the boundary of the municipality for purposes of its police jurisdiction.

A street or highway which serves as the boundary between municipalities is under the police jurisdiction of both municipalities regardless of the municipality in which the street or highway is located.

(emphasis added).

Several principles of statutory construction are applicable here. First and foremost, is the time-honored principle that the intent of the General Assembly must prevail. Bankers Trust of South Carolina v. Bruce, 275 S.C. 35, 267 S.E.2d 424 (1980). The real purpose and intent of the lawmakers will prevail over the literal import of the statute. Caughman v. Columbia Y.M.C.A., 212 S.C. 337, 47 S.E.2d 788 (1948). A statute as a whole must receive a practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of the lawmakers. Id. A thing which is the intention of the makers of a statute is as much within the statute as if it were within the letter. Greenville Baseball v. Bearden, 200 S.C. 363, 20 S.E.2d 813 (1942).

It is evident that the overriding purpose of § 5-7-155 is to extend jurisdiction to both municipalities where a "street or highway serves as the boundary between municipalities." I see no reason why a court would not apply this situation to the analogous circumstance where the street or highway serves as the boundary between the same municipality. In other words, it would make no sense to apply this statute where two different towns were involved, but not where the same municipality's territory ran on either side of the unincorporated portion of the street. While no court case or opinion of this Office of which I am aware has applied this statute to your specific facts, I believe there is good likelihood that a court would so extend the statute.

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In addition, as a precaution, you may wish to examine Section 5-7-110. Such provision states in pertinent part that:

[a]ny such police officers shall exercise their powers on all private and public property within the corporate limits of the municipality and on all property owned or controlled by the municipality wheresoever situated; provided, that the municipality may contract with any public utility, agency, or with any private business to provide police protection beyond the corporate limits. Should the municipality provide police protection beyond its corporate limits by contract, the legal description of the area to be served shall be filed with the State Law Enforcement Division, the office of county sheriff and the Department of Public Safety.

I am enclosing an opinion of this Office, Op. Atty. Gen., Op. No. 86-79 (July 11, 1986) which references § 5-7-110 as one means to allow (by contract with a county) "Greenwood police officers to assist in the investigation of accidents and the control of traffic [incident] to a traffic accident at an intersection which is located just outside the city limits of Greenwood." Such Opinion outlines a number of other statutes which may be applicable to such situations. Thus, you may wish to review these statutes (along with § 5-7-110) as an alternate means of resolving the problem if you choose not to rely upon § 5-7-155. See also Op. Atty. Gen., August 7, 1979 (enclosed).

This letter is an informal opinion only. It has been written by a designated Assistant Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Very truly yours,



Robert D. Cook  
Assistant Deputy Attorney General

RDC/an  
Enclosures