



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

June 2, 1999

James F. Walsh, Jr., Esquire
City Attorney
City of Orangeburg
Post Office Box 627
Orangeburg, South Carolina 29115

Dear Mr. Walsh:

In a letter to this office you questioned whether the provisions of S.C. Code Ann. §56-5-2953 (Supp. 1998) are applicable to non-SLED provided breath site videotaping devices. You referenced that Orangeburg County has utilized videotaping devices since 1996.

Section 56-5-2953 provides for videotaping at breath sites following arrests for driving under the influence. Included in the statute are provisions detailing requirements to be followed in videotaping and provisions regulating the use of videotapes. Pursuant to subsection (D), "SLED is responsible for purchasing, maintaining, and supplying all necessary videotaping equipment for use at the breath test sites." Subsection (E) provides for utilization of specified funds to equip breath test sites with videotaping devices and supplies "(b)eginning one month from the effective date of this act...." Pursuant to subsection (F), "The Department of Public Safety and SLED shall promulgate regulations necessary to implement the provisions of this section." Section 18 of Act No. 434 of 1998 of which §56-5-2953 is a part, states that "(t)he provisions in Section 56-5-2953(F) take effect one year after approval by the Governor." Act No. 434 was approved June 29, 1998 so the provision requiring regulations to implement §56-5-2953 is not effective until June 29, 1999.

While no provision of §56-5-2953 explicitly states that only SLED provided videotaping equipment can be utilized to videotape breath sites, it appears that the provisions of §56-5-2953 are applicable only to SLED purchased and supplied videotaping

Request Letter

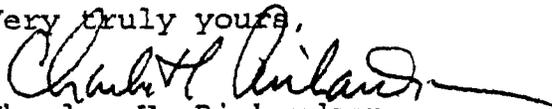
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equipment. As referenced above, SLED, along with the Department of Public Safety, is required to promulgate regulations to implement the act effective June 29, 1999. It would appear to be incongruous to construe §56-5-2953 to be applicable to videotaping accomplished prior to the promulgation of these regulations.

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

With kind regards, I am,

Very truly yours,



Charles H. Richardson
Senior Assistant Attorney General

CHR:kws