

1981 WL 158169 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 26, 1981

\*1 Tom D. Murtiashaw, Jr.  
Magisterial Court Administrator  
Richland County Magisterial Court Administrator  
1328 Huger street  
Columbia, S.C. 29201

Dear Mr. Murtiashaw:

In a letter to this office you questioned whether the provisions of [Section 17-25-350, Code of Laws of South Carolina, 1976](#), which authorize a schedule for the payment of a fine by an indigent, are applicable to a driver, who, having been issued a traffic citation and released on personal recognizance pursuant to [Section 56-25-30, Code of Laws of South Carolina, 1976](#), as amended, fails to appear for trial and is tried in his absence. I have been informed that in such instances, pursuant to the Nonresident Traffic Violator Compact, a notice is sent to individuals charged with moving violations, who have failed to post bond, stating that they are allowed fifteen days to appear before the court to comply with the terms of the sentence imposed. Failure to appear results in suspension of the driver's license. As to those individuals charged with non-moving violations, such as equipment violations, bench warrants are issued.

[Section 17-25-350, supra](#), which authorizes a schedule for the payment of a fine by an indigent, applies to ‘. . . any offense carrying a fine or imprisonment . . .’ Such section further provides that ‘no person found to be indigent shall be imprisoned because of inability to pay the fine in full at the time of conviction.’

For [Section 17-25-350, supra](#), to apply, there must first be a determination of indigency. If there is a determination that the individual tried in his absence is indigent, he must, pursuant to [Section 17-25-350](#), be afforded a period of time to pay the fine imposed. The fact that the individual was tried in his absence does not prevent him from being given a period of time to pay any fine imposed.

If there are any questions concerning the above, please contact me.

Sincerely,

Charles H. Richardson  
Assistant Attorney General

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