

1978 WL 207615 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 29, 1978

\*1 Mr. E. P. Austin, Jr.  
Director  
Motor Vehicles Division  
South Carolina Department of Highways and Public Transportation  
Post Office Drawer 1498  
Columbia, South Carolina 29216

Dear Mr. Austin:

You have requested an Opinion from this Office concerning what suspension action the South Carolina Highway Department may take on DUI convictions charged under State statute while operating on military reservations.

[Sections 56-1-320](#) and [56-1-790 of the South Carolina Code](#) place discretionary power in the Department to recognize and act on both out of state and military traffic convictions, but the constitutionality of these statutes has been questioned. An Opinion from this Office has declared [Section 56-1-320](#) unconstitutional, finding that such discretionary power violates the equal protection provisions of both the State and Federal Constitutions and that the Department may not suspend or revoke the driver's license pursuant to such section (1974 Op. Atty. Gen. No. 3835 at page 24.) It therefore stands to reason that [Section 56-1-790](#) would meet the same fate.

However, when the Department takes suspension action against drivers charged with DUI while operating on military reservations in South Carolina, it is not dealing with [Section 56-1-790](#). On all military reservations in South Carolina the State traffic laws have been adopted. Such adoption is provided for under the Assimilative Crimes Act which states that, in the absence of governing federal law, areas within federal jurisdiction adopt the laws of the state where situated. ([Title 18 USCA &13](#)).

Since South Carolina traffic laws are the basis for the convictions on the military reservations in this State, the requirements of [Section 56-1-280](#) must be considered:

The Department shall ... revoke or suspend a driver's license for any ... cause as may be required by other laws of the State.”

Under the language, the Department is required to act in accordance with State law and, because the military reservations are following state law, these areas are subject to Department's control. It is therefore the Opinion of this Office that the Department is required to take action under [Section 56-1-280](#) when DUI charges are made on the basis of State statute on a military reservation within the State.

Sincerely,

A. Camden Lewis  
Sr. Assistant Attorney General

Reviewed & Approved:

Victor S. Evans  
Dep. Atty. Gen.

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