

1976 S.C. Op. Atty. Gen. 427 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4555, 1976 WL 23171

Office of the Attorney General

State of South Carolina

Opinion No. 4555

December 30, 1976

\*1 The requirement of obtaining a 406 form imposed by Section 46-17.2 of the Code of Laws is not unconstitutional.

TO: Honorable Frank L. Roddey  
Senator  
Lancaster, York and Kershaw Counties

#### QUESTION

Are the requirements of Section 46-17.2 which require county property taxes to be paid before license plates are issued constitutional?

#### STATUTE

Section 46-17.2, 1962 South Carolina Code of Laws, as amended.

#### DISCUSSION

The requirement that county property taxes be paid prior to the issuance of motor vehicle license plates by the South Carolina Highway Department is set forth in Section 46-17.2 of the Code. The Section requires the presentation of a so-called 406 Form signed by the county treasurer of the taxpayer's residence that there are no personal property taxes due and unpaid on any motor vehicle listed on the tax rolls as being owned by the license plate applicant.

The question of the constitutionality of a similar statute was raised in the Maryland case of Grossfield v. Burghman, 129 A. 371. The Maryland Court held that the requirement that property taxes be paid before license plates could be issued for a motor vehicle was constitutional and not as infringement of the Due Process Clause of the United States Constitution. The case is cited with other authority at 16 C.J.S., Constitutional Law, Section 659 at note 51.

#### CONCLUSION

The requirements of Section 46-17.2 of the Code are constitutional.

John C. von Lehe  
Assistant Attorney General

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