

1974 WL 27888 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 26, 1974

*1 The Honorable Charles H. Pate
Chesterfield County Magistrate
Post Office Box 458
McBee, South Carolina 29101

Dear Judge Pate:

I am in receipt of your recent correspondence regarding the hypothetical question which you posed to me concerning the purchase of an automobile.

Please be advised that the pertinent statutes are § 10.4-403, § 8-177.1 and § 8-170 of the 1962 Code of Laws of South Carolina. Section 10.4-403 sets out the customer's right to stop payment on a check and the procedure that is followed. This section must be read in light of § 8-177.1, which makes it unlawful for any person with intent to defraud to stop payment on a check. Section 8-178 sets the penalties and the court's jurisdiction for violation of § 8-177.1.

It would seem from reading the letter and the facts presented that 'subject B' could be charged with fraudulently stopping payment of a check. The question arises though as to what type of deposit was put down (i.e. was it to be towards the purchase price of the car, a security deposit and non-refundable, etc.). If the requisite intent was present, this would determine if he could be charged with violating § 8-177.1.

I hope the above meets the needs of your inquiry. Should you need further assistance, please let us know.

Very truly yours,

Hutson S. Davis, Jr.
Assistant Attorney General

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