

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

July 10, 2019

David Stanley, Chief
Monticello Police Department
Post Office Box 822
Monticello, Mississippi 39654

Re: Opinion Request Regarding Section 63-7-301 of the Mississippi Code

Dear Chief Stanley:

Attorney General Jim Hood has received your request for an opinion and has assigned it to me for research and response.

OFFICIAL OPINION

Background and Issues Presented

Your request states:

Please provide some clarification in regard to the enforcement of Section 63-7-301 of the Mississippi Code and its various subsections. I believe that Section 63-7-301(1)(a) makes it clear that the driver of the vehicle is responsible for making sure that each child that is being transported in the vehicle is in compliance with the child restraint requirements set out in the statute regardless of the relationship or lack of relationship between the driver and children. But, I believe that the statute is unclear as to the number of citations that can be issued for multiple violations arising out of the same vehicle at the same time. If there is more than one child in the vehicle who is in violation of the statute, may an officer issue the driver of the vehicle a separate citation or charge for each child that is in violation of the statute or should the officer only issue one citation or charge to the driver for multiple children who are not in compliance with the statute at the same time?

Brief Response

A law enforcement officer may issue multiple citations for each violation of Section

63-7-301 of the Mississippi Code occurring in the same vehicle.

Discussion and Analysis

Section 63-7-301 of the Mississippi Code requires every person transporting children to meet certain child passenger restraint device requirements. Section 63-7-301(1) states:

(1)(a) Every person transporting a child under the age of four (4) years in a passenger motor vehicle, and operated on a public roadway, street or highway within this state, shall provide for the protection of the child by properly using a child passenger restraint device or system meeting applicable federal motor vehicle safety standards.

(b) Every person transporting a child in a passenger motor vehicle operated on a public roadway, street or highway within this state, shall provide for the protection of the child by properly using a belt positioning booster seat system meeting applicable federal motor vehicle safety standards if the child is at least four (4) years of age, but less than seven (7) years of age and measures less than four (4) feet nine (9) inches in height or weighs less than sixty-five (65) pounds.

(c) If more than two (2) children who are required under subsection (1) of this section to use a booster seat are being transported in a vehicle at one time, and the vehicle only has two (2) lap and shoulder belts in the rear seat, then only the two (2) children sitting in the seats with the lap and shoulder belts are required to use a belt positioning booster seat system and safety belt, and any other children may be secured with a safety seat lap belt only.

* * *

The penalty for violating Section 63-7-301 is found in Section 63-7-309 of the Mississippi Code which states that any person who is convicted of violating Section 63-7-301 "shall be fined not more than Twenty-five Dollars (\$25.00) for each offense." (Emphasis added). The language relating to a twenty-five dollar (\$25.00) fine per offense contemplates that a single driver may be cited for more than one offense.¹

Therefore, it is the opinion of this office that if an officer finds probable cause that any person who is transporting multiple children has violated Section 63-7-301 more than

¹ Conversely, Section 63-2-7 of the Mississippi Code, which deals with seatbelt violations of the operator and/or any passengers, only allows for a twenty-five dollar (\$25.00) fine in the aggregate. This office has previously opined that if the operator or multiple passengers violate Section 63-2-1, a law enforcement officer should only issue one citation to the operator of the vehicle. See MS AG Op., Horne (January 25, 2019).

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one time, the officer may issue the person more than one citation.

If we may be of further assistance, please advise.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By: 

Emiko Hemleben
Special Assistant Attorney General

OFFICIAL OPINION