

STATUTORY PROVISIONS FOR THE DISTRIBUTION OF REVENUE GENERATED  
BY THE CIRCUIT COURTS, FAMILY COURTS, MAGISTRATES AND MUNICIPAL  
COURTS; FEES AND RELATED CHARGES OF THE REGISTER OF DEEDS

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**V. Magistrates Court**

A. General Rule for Distribution of Revenue

1. Magistrates' criminal fines, penalties or forfeitures, Section 22-1-90

Generally, the revenue generated from criminal fines, penalties, and forfeitures in magistrates court is retained by the county. However, you may routinely encounter nine exceptions to this rule. These exceptions, which are discussed below, are DUI and DUI Per Se, Section 56-5-2940; DUS, Section 56-1-460; bond estreatments, Section 17-15-260; insurance fraud, Section 38-55-560; cruelty to animals, Section 47-1-160; game or fish law violations, Sections 50-1-150 and 170; size and weight violations, Section 56-5-4160; carriers of household goods and hazardous waste for disposal, Section 58-23-590; and cases transferred from general sessions court, Section 22-3-545.

Magistrates and are required to turn over to the County Treasurer all criminal fines, penalties or forfeitures, collected during the preceding month, on the first Wednesday or within ten days thereafter, during each successive month. Likewise, a full and accurate statement of all criminal monies collected must also be furnished to the county auditor. **Please see Proviso 72.92 in the cover memoranda concerning possible action by the State Auditor for failure to timely transmit court generated revenues.**

2. Assessment, Section 14-1-207

Section 35.11 of the Temporary Provisions of the General Appropriations Act, which suspends Section 14-1-207 for the fiscal year 2004-2005, requires any person who is convicted, pleads guilty or nolo contendere to, or forfeits bond for an offense tried in magistrates court on or after July 1, 2004 to pay an assessment in an amount equal to 107.5% of the fine actually imposed. If a portion of the fine is suspended, the assessment is calculated on the amount of the fine that is not suspended. This assessment applies to county ordinances also.

**The assessment cannot be waived, reduced, or suspended.** The amount collected as assessments must be forwarded each month to the County Treasurer, who shall retain 11.16% of the revenue generated by the assessment for the county, and transmit the remaining 88.84% by the fifteenth of each month to the State Treasurer on forms and in a manner prescribed by him.

The 11.16% retained by the county must be used exclusively for providing victim services as required by Article 15 of Title 16; specifically, those service requirements that are imposed on local law enforcement, local detention facilities, prosecutors, and the summary courts. First priority must be given to those victims' assistance programs which are required by Article 15 of Title 16 and second priority must be given to programs which expand victims' services beyond those required by Article 15 of Title 16. Any funds retained by the County Treasurer which are not used for victim services at the end of the fiscal year must be carried forward to the next year and used

exclusively for services for victims of crimes. All unused funds must be separately identified in the counties adopted budget as funds unused and carried forward from previous years.

To ensure that fines and assessments imposed pursuant to this section and section 14-1-209(B) are properly collected and remitted to the State Treasurer, the annual independent external audit required to be performed by each county pursuant to Section 4-9-150 must include a review of the accounting controls over the collection, reporting and distribution of fines and assessments from the point of collection to the point of distribution and a supplementary schedule indicating all fines and assessments collected by the clerk of the magistrate court, the amount of fines and assessments retained by the County Treasurer, and the amount fines and assessments remitted to the State Treasurer, the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward. Within thirty days of the issuance of the audited financial statement, the county must submit a copy to the State Treasurer, and a statement of the actual cost associated with the preparation of supplementary schedule required in this subsection, 14-1-207(E). Upon submission to the State Treasurer, the county may retain and pay from the fines and assessments collected pursuant to this section the actual expense charged by the external auditor for the preparation of the supplementary schedule, not to exceed \$1,000 each year.

The clerk of court and County Treasurer shall keep records of fines and assessments required to be reviewed under this section in the format determined by the county council.

### 3. Surcharge on all convictions, Section 14-1-211

In addition to all other assessments and surcharges, a twenty-five dollar surcharge is imposed on all convictions obtained in magistrates court, including county ordinances. The surcharge must not be imposed on convictions for misdemeanor traffic offenses. However, the surcharge applies to all violations of Section 56-5-2930, driving under the influence of liquor, drugs, or like substances, and Section 56-5-2933, DUI Per Se. **No portion of the surcharge may be waived, reduced, or suspended.**

The revenue collected pursuant to Section 14-1-211 must be retained by the jurisdiction which heard or processed the case and paid to the County Treasurer, for the purpose of providing services for victims of crimes, including those required by law. Any funds retained by the County Treasurer pursuant to this Section must be deposited into a separate account for the exclusive use for all activities related to victims services. For the purpose of funds allocation and expenditure, these funds are a part of the general fund of the county. These funds must be appropriated for the exclusive purpose of providing victim as required by Article 15 of Title 16; specifically, those service requirements that are imposed on local law enforcement, local detention facilities, prosecutors, and summary courts. First priority must be given to those victims' assistance programs which are required by Article 15 of Title 16 and second priority



must be given to programs which expand victims' services beyond those required by Article 15 of Title 16. These funds may be used for, but are not limited to, salaries, equipment that includes computer equipment and Internet access, or other expenditures necessary for providing services to crime victims. All unused funds must be carried forward from year to year and used exclusively for victim services. All unused funds must be separately identified in the county's adopted budget as funds unused and carried forward from previous years.

The surcharge revenue retained by the county must be reported to the State Treasurer monthly in a form and manner required by that office. To insure that surcharges imposed pursuant to Section 14-1-211(A) are properly collected and remitted to the County Treasurer, the annual independent external audit required to be performed by each county pursuant to Section 4-9-150 must include a review of the accounting controls over the collection, reporting and distribution of surcharges from the point of collection to the point of distribution and a supplementary schedule detailing the amount of surcharges collected at the court level, the amount retained by the county, the amount of funds allocated to victims' services by fund source, how those funds were expended, and any carry forward balances.

4. Surcharge on all convictions, Law Enforcement Funding, Section 73.3, Part 1B Temporary Provisos

Effective July 1, 2004, in addition to all other assessments and surcharges, during fiscal year 2004 - 2004, a twenty-five dollar surcharge is levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in magistrates court, including county ordinances. No portion of the surcharge may be waived, reduced, or suspended. The revenue collected from the surcharge must be retained by the jurisdiction which heard or processed the case and paid to the State Treasurer within thirty days after receipt. These funds should be clearly designated when transmitted to your County Treasurer and then forwarded to the State Treasurer.

Section 73.3 (D) provides that the State Treasurer may request the State Auditor to examine the financial records of any jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer under this Section. The State Auditor is further authorized to conduct these examinations and a local jurisdiction is required to participate in and cooperate fully with the examination.

5. Surcharge on convictions of Sections 56-5-2930(DUI) and 56-5-2933(DUI Per Se), Section 14-1-211(A)(2)

Section 14-1-211(A)(2) requires that a one hundred dollar surcharge be imposed on all convictions of Sections 56-5-2930(DUI) and 56-5-2933(DUI Per Se). No portion of the surcharge may be waived, reduced, or suspended. These funds should be clearly designated when transmitted to your County Treasurer and then forwarded to the State

Treasurer. The State Treasurer shall put these funds in a separate account to be used for spinal cord research at MUSC.

All one-time operating and administrative costs for county and municipal government related to computer upgrades or programming related to these surcharges shall be deducted from the revenue collected pursuant to (A)(2) before remission to the State Treasurer.

6. DUI assessment, Section 56-5-2995(A)

In addition to the assessment and surcharges discussed in V.A.2., V.A.3., V.A.4. and V.A.5. above, a twelve dollar assessment must be imposed for all convictions of Section 56-5-2930, DUI, or Section 56-5-2933, DUI Per Se, obtained in magistrates court. These funds should be clearly designated and transferred to your County Treasurer for remittance to the State Treasurer for disbursal pursuant to Section 14-1-201.

7. Drug Court Surcharge, Section 33.7, Part 1B Temporary Provisos

Effective July 1, 2004, in addition to all other assessments and surcharges required to be imposed by law, during fiscal year 2004-05, a one hundred dollar surcharge is imposed on all misdemeanor drug offense convictions in the magistrate court. No portion of the surcharge may be waived, reduced, or suspended. The revenue collected pursuant to this Section must be retained by the jurisdiction which heard or processed the case and paid to the State Treasurer within thirty days after receipt. These funds should be clearly designated when transmitted to your County Treasurer and then forwarded to the State Treasurer.

Section 33.7 (D) provides that the State Treasurer may request the State Auditor to examine the financial records of any jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer under this Section. The State Auditor is further authorized to conduct these examinations and a local jurisdiction is required to participate in and cooperate fully with the examination.

8. Payment of the fine and assessment by installments, Section 14-1-209(B) and 3% collection cost charge, Section 14-17-725

When the fine and assessment are paid in installments, Section 35.11 of the Temporary Provisions of the General Appropriations Act suspends Section 14-1-209(B) for the fiscal year 2004 - 2005 and requires that 51.80722% of each installment be treated as a payment towards the assessment. The remaining 48.192771% is treated as a payment towards the fine. The assessment amount must further be divided, with 88.84 being transmitted to the state, and 11.16 being retained by the county for victims' services. Prior to making these computations, you must determine what other

assessments may apply (conviction surcharge, DUI assessments, etc.). Those charges must be collected separately and not included in the percentage splits explained above. Funds collected as installments should not be held until full payment is received but must be remitted each month to the County Treasurer. To compensate for this slight shift in funds, the division of the final installment payment should be adjusted so that the portion collected as the assessment does not exceed the amount originally imposed.

When an individual pays the fine, assessment, or restitution through installments, Section 14-17-725 provides that the magistrate must collect an additional 3% of the installment payment as a collection cost charge. The collection cost is transmitted to the County Treasurer for deposit to the county general fund.

9. Boating Under the Influence Breath Test Fee, Section 50-21-114

Pursuant to Section 50-21-114, any individual convicted of, pleading guilty or nolo contendere to, or forfeiting bond for violating Section 50-21-112 (BUI) or 50-21-113 (BUI Per Se), and who was administered a breathalyzer examination at the time of arrest, must be assessed an additional fee of \$50.00 at the time of sentencing. This fee must be forwarded by the County Treasurer to the State Treasurer and credited to the General Fund of the State to defray any costs incurred by SLED and individuals and institutions attaining the samples forwarded to SLED.

10. Administrative court costs in fraudulent check cases, Sections 34-11-70(b) and (c), and 34-11-90(c) and (d)

In most fraudulent check cases, the court is entitled to collect reasonable administrative court costs not to exceed forty-one dollars. This amount is collected from the prosecuting witness if the court dismisses the case for want of prosecution, Section 34-11-70(b), or from the defendant if the court dismisses the case upon satisfactory proof of restitution, Section 34-11-70(c). If the case goes to trial and the defendant is convicted, the cost shall be collected, Section 34-11-90(d), even if the sentence is required to be suspended as provided in Section 34-11-90(c).

Whenever there is a conviction, the assessment discussed in V.A.2., V.A.3., and V.A.4. above must be collected along with the fine and administrative court cost. If the fine was ultimately suspended, the assessment is computed and collected based on the amount of the fine that is not suspended.

B. Exceptions to the general rule

We have identified ten exceptions that may frequently be encountered to the general rule that the county receives all of the revenue from criminal fines, penalties, and forfeitures in magistrates court.

1. DUI and DUI Per Se, \$100.00 Pull-Out, Section 56-5-2940

Section 56-5-2940 requires that \$100.00 of each fine imposed pursuant to Sections 56-5-2930 (DUI) and 56-5-2933 (DUI Per Se) must be forwarded to the State Treasurer and placed into a special restricted account to be used by the Department of Public Safety for the Highway Patrol. This applies to first and subsequent offenses of those statutes. The remainder of the fine shall be retained by the jurisdiction that disposed of the case. These funds should be clearly designated in your monthly report to the County Treasurer and State Treasurer.

2. DUS, \$100.00 Pull-Out, Section 56-1-460 (C)

Section 56-1-460(C) as it relates to Driving under Suspension requires that \$100.00 of each fine imposed pursuant to that section must be forwarded to the State Treasurer and placed into a special restricted account to be used by the Department of Public Safety for the Highway Patrol. The remainder of the fine shall be forwarded to the County Treasurer and placed in the County General Fund. This applies to first and subsequent offenses of those statutes. These funds should be clearly designated in your monthly report to the County Treasurer and State Treasurer.

a. Exception, Section 12-37-2740, DUS for Failure to Pay Property Tax

An exception to the rule requiring \$100 of each driving under suspension fine be "pulled out" for the benefit of the the Department of Public Safety is found at Section 12-37-2740, Driving Under Suspension For Failure to Pay Property Taxes. That section contains specific penalty provisions for such a violation which are separate and distinct from the penalties provided in Section 56-1-460. When handling those cases, reference should be made to that statute for the penalty requirements, and the \$100 "pull out" does not apply.

3. Bond estreatments, Section 17-15-260

Section 17-15-260 provides that the funds resulting from a bond estreatment are divided as follows: 25% to the state general fund, 25% to the solicitor's office, and 50% to the county general fund. If the case was originated by a municipality, the estreated funds are divided as follows: 25% to the state general fund, 25% to the solicitor's office, 25% to the county general fund, and 25% to the municipality. The state's portion should be turned over to the County Treasurer on a monthly basis for transmittal to the State Treasurer.

a. Payment of estreatment in installments, Section 38-53-70

Section 38-53-70 provides that the court may allow the surety to pay an estreatment in installments for a period of up to six months. However, the surety must pay a handling fee to the court in an amount equal to 4% of the value of the bond. Per Order of the Chief Justice dated November 14, 2002, the 4% handling fee should be dispersed with the other monies estreated pursuant to V.A.3. above.

4. Insurance fraud, Section 38-55-560

Section 38-55-560 requires that 100% of all criminal fines generated from violations of Section 38-55-170 or 540 must be transmitted to the Insurance Fraud Division of the Office of the Attorney General. The statute provides that SLED and the Attorney General divide these funds equally, and those two agencies have entered into a written agreement whereby the Attorney General receives the funds and then makes the proper distribution to SLED. These funds should be clearly noted on your report to the county so that the proper amount of funds can be transmitted to Byron R. Roberts, Director, Insurance Fraud Division, Office of the Attorney General, P. O. Box 11549, Columbia, South Carolina 29211. The assessment discussed in V.A.2., V.A.3. and V.A.4. should be collected on all criminal insurance fraud violations. See "**Attachment I**" for use in identifying these funds to the County Treasurer.

5. Cruelty to animals, Section 47-1-60

Section 47-1-160 requires that, if the court determines that there was a nonprofit humane organization in the municipality or county materially involved in or aiding in the prosecution of a violation of any cruelty to animal offense found in Chapter 1 of Title 47 of the South Carolina Code of Laws, one half of the fine must be distributed to that organization. The remainder of the fine shall be retained by the county. These funds should be clearly noted on your report to the County Treasurer so that the proper amount of the fine is distributed to the appropriate agency. The assessment discussed in V.A.2., V.A.3., and V.A.4. should be collected on all cruelty to animal violations. See "**Attachment J**" for use in identifying these funds to your County Treasurer.

6. Game or fish law violations, Sections 50-9-910, 50-5-25, 50-21-160, 50-23-220, and 50-9-920

Section 50-9-910 requires that one hundred percent of all revenues from fines and forfeitures from violations of Chapters 1 through 16 of Title 50 (Fish, Game, and Wildlife), except for violations of marine resources laws, shall be transmitted to the County Treasurer monthly. The treasurer then transmits the funds to the Department of Natural Resources, Accounting Department by the 15<sup>th</sup> of each month to be credited to the County Game and Fish Fund in the county in which the offense occurred. The remittances shall be accompanied by a statement showing the name of all persons

fined, the amount of each fine, the summons number and the court in which each fine was collected.

Section 50-5-25 provides for the distribution of all revenues from fines and forfeitures for violations of marine resource laws. Similar to the distribution discussed in the paragraph immediately above, that section provides that one hundred percent of these fines shall be transmitted to the County Treasurer monthly, and then forwarded to the State Treasurer, to be credited to the Wildlife Department and deposited in the County Game and Fish Fund for the county in which the offense occurred by the 15<sup>th</sup> of each month.

Section 50-21-160 provides that 75% of all fine revenues generated pursuant to offenses contained within Chapter 21 of Title 50 shall be forwarded to the County Treasurer monthly, and sent to the Wildlife Department, Natural Resource Enforcement Division by the 15<sup>th</sup> of each month. 25% of those fines must be forwarded to the County Treasurer and retained by the County in which the fine is levied, and placed in the County General Fund.

Section 50-23-220 requires that all revenues received and collected pursuant to Chapter 23 of Title 50 (Titling of Watercraft and Outboard Motors) shall be forwarded to the County Treasurer on a monthly basis, who shall forward these funds to the State Treasurer to be placed in a special fund for the Wildlife Department to be used for expenses in administering the provisions of Chapter 23. As information, the only penalty provision in that Chapter is Section 50-23-280.

Section 50-9-920 requires that revenue from fines and forfeitures for violations of "other sections" of this Title and for "all other offenses investigated or prosecuted by the Department" must be deposited with the State Treasury to the credit of the Game Protection Fund. The phrase "other sections" has been interpreted to include violations of Chapters 18, 19, and 25 of Title 50, since none of the Sections described above affect these Chapters. The phrase "all other offenses investigated or prosecuted by the Department" has been interpreted to include the list of offenses found in Section 50-3-410, as well as any other non-Title 50 offenses investigated or prosecuted by the Department. These funds should be forwarded to your County Treasurer monthly, who shall then forward them to the State Treasurer.

All game or fish law violations are subject to the assessments set forth in V.A.2., V.A.3., and V.A.4. above. The Department of Natural Resources monitors the disposition of all wildlife cases. Should a game or fish law violation be disposed of in your court, you may expect to receive an invoice similar to the one marked **"Attachment G"**.

7. Axle weight and gross weight violations, Section 56-5-4160

Section 56-5-4160 provides that all fines collected for violating the weight limits set by Section 56-5-4130 or Section 56-5-4140 must be deposited within 45 days in the account designated the "Size and Weight Revitalization Program Fund for Permanent Improvements". These funds should be clearly noted on your report to the County Treasurer so that the proper amount of fines can be transmitted to the State Transport Police at 220 Executive Center Drive, Winthrop Building, Suite 200, Columbia, South Carolina 29210. The assessment discussed in V.A.2. and V.A.4., but not V.A.3., above should be collected on weight violations.

8. Carriers of household goods and hazardous waste for disposal, Section 58-23-590(E)

Section 58-23-590(E) requires that 75% of each fine generated from a violation of Section 58-23-40 be deposited with the Office of Compliance with the Public Service Commission. The county retains the remaining 25% of the fine. These funds should be clearly noted on your report to the County Treasurer so that the proper amount of fines can be transmitted to the Public Service Commission, Comptroller, Post Office Drawer 11649, Columbia, South Carolina 29211. The assessment discussed in V.A.2., V.A.3., and V.A.4. above should be collected on these violations.

9. Tattooing Regulation Violation, Section 44-34-100(G)

R. 338, S. 104 amends the Code by adding Chapter 34 of Title 44, so as to legalize and regulate tattooing in this State. Section 44-34-100(G) provides that all criminal fines generated from a violation of that Chapter, or from Section 16-17-700 (which was amended by this Bill and now criminalizes violations of Chapter 34 of Title 44), be remitted to the Department of Health and Environmental Control. These revenues should be forwarded to your County Treasurer monthly, along with a list of the disposed cases, who shall remit them to the following address: DHEC, Bureau of Health Licensing, Attention: Dennis Gibbs, 2600 Bull Street, Columbia, SC, 29201. The assessment discussed in V.A.2., V.A.3., and V.A.4. above should be collected on these violations. This Bill is effective upon the Governor's signature. The Bill has yet to be signed. However, it is not anticipate that these cases will appear in your court in the near future. You will be notified of the effective date upon signature of the Bill.

**See "Attachment B" for examples of the above mentioned collections and disbursements.** Except for the revenue from bond estreatments which should be identified in a separate transmittal, the docket sheets may be used to transmit the funds described above to the County Treasurer. **"Attachment E"** may also be used to transmit these funds to your County Treasurer.

10. Cases transferred from the general sessions court, Section 22-3-545
  - a. General Rule
    - i. Disbursement and division of revenue, Sections 14-1-205 and 14-17-720

Section 22-3-545 establishes a procedure for transferring certain cases from the general sessions court to the magistrates court for disposition and provides that the revenue generated by these cases shall be distributed as if the fines had been imposed in the circuit court. The general rule for distribution of revenue generated from fines in general sessions court is that, pursuant to Section 14-1-205, 56% of all such money (after any payments to informants pursuant to Section 14-17-720) shall be paid over to the county. The remaining 44% of the revenues generated from fines must be forwarded each month to the County Treasurer for remittance to the State Treasurer on forms and in a manner prescribed by him.

The procedure for transferring cases pursuant to Section 22-3-545 does not affect the cases that are remanded to the magistrate court for disposition on a lesser included offense within the court's jurisdiction.

- ii. Assessment, Section 14-1-206(A)

Section 35.11 of the Temporary Provisions of the General Appropriations Act, which suspends Section 14-1-206 for the fiscal year 2004- 2005, requires any person who is convicted, pleads guilty or nolo contendere to, or forfeits bond for an offense tried in general sessions court on or after July 1, 2004 to pay an assessment in an amount equal to 107.5% of the fine actually imposed. If a portion of the fine is suspended, the assessment is calculated on the amount of the fine required to be paid.

The assessment cannot be waived, reduced, or suspended. The amount collected as assessments must be forwarded each month to the County Treasurer, who shall retain 35.35% of the revenue generated by the assessment for the county, and transmit the remaining 64.65% by the fifteenth of each month to the State Treasurer on forms and in a manner prescribed by him. The 35.35% retained by he county must be used for the provision of services for victims including those required by law.

- iii. Conviction Surcharge, Section 14-1-211

In addition to all other assessments and surcharges, a one hundred dollar surcharge is imposed on all convictions obtained in general sessions court. The surcharge must not be imposed on convictions for misdemeanor traffic offenses. However, the surcharge applies to all violations of Section 56-5-2930, driving under the influence of liquor, drugs, or like substances, and Section 56-5-2933, DUI Per Se. **No portion of the surcharge may be waived, reduced, or suspended.**



The revenue collected pursuant to Section 14-1-211 must be retained by the jurisdiction which heard or processed the case and paid to the County Treasurer, for the purpose of providing services for victims of crimes.

iv. Surcharge on all convictions, Law Enforcement Funding, Section 73.3, Part 1B Temporary Provisos

In addition to all other assessments and surcharges, during fiscal year 2004-05, a twenty-five dollar surcharge is levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in general sessions court. No portion of the surcharge may be waived, reduced, or suspended. The revenue collected from the surcharge must be retained by the jurisdiction which heard or processed the case and paid to the State Treasurer within thirty days after receipt. These funds should be clearly designated when transmitted to your County Treasurer and then forwarded to the State Treasurer.

Section 73.3 (D) provides that the State Treasurer may request the State Auditor to examine the financial records of any jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer under this Section. The State Auditor is further authorized to conduct these examinations and a local jurisdiction is required to participate in and cooperate fully with the examination.

v. Surcharge on convictions of Sections 56-5-2930(DUI) and 56-5-2933(DUI Per Se), Section 14-1-211(A)(2)

Section 14-1-211(A)(2) requires that a one hundred dollar surcharge be imposed on all convictions of Sections 56-5-2930(DUI) and 56-5-2933(DUI Per Se). No portion of the surcharge may be waived, reduced, or suspended. These funds should be clearly designated when transmitted to your County Treasurer and then forwarded to the State Treasurer. The State Treasurer shall put these funds in a separate account to be used for spinal cord research at MUSC.

vi. DUI assessment, Section 56-5-2995(B)

In addition to the assessments and surcharges discussed in IV.B.7.a.ii. and IV.B.7.a.iii. above, an additional assessment of twelve dollars must be added to all convictions for Section 56-5-2930, DUI, Section 56-5-2933, DUI Per Se, and for Section 56-5-2945, Felony DUI. These funds should be transferred to your County Treasurer for transmittal to the State Treasurer for disbursal pursuant to Section 14-1-201.

vii. DUI Vehicle Assessment, Section 56-5-2942 (J)

Section 56-5-2942(J) requires that the Court must assess a fee of \$40.00 for each motor vehicle owned by or registered to the person convicted of a **second or subsequent** violation of Sections 56-5-2930, 56-5-2933, or 56-5-2945. This fee must

be transmitted to the County Treasurer and placed by the Comptroller General into a special restricted interest bearing account to be used by the Department of Public Safety to defray the expenses of the Division of Motor Vehicles.

viii. Drug Court Surcharge, Section 33.7, Part 1B Temporary Provisions

Effective July 1, 2004, in addition to all other assessments and surcharges required to be imposed by law, during fiscal year 2004 - 2005, a one hundred dollar surcharge is imposed on all misdemeanor and felony drug offense convictions in the court of general sessions. **No portion of the surcharge may be waived, reduced, or suspended.** The revenue collected pursuant to this Section must be retained by the jurisdiction which hear or processed the case and paid to the State Treasurer within thirty days after receipt. These funds should be clearly designated when transmitted to your County Treasurer and then forwarded to the State Treasurer.

Section 33.7 (D) provides that the State Treasurer may request the State Auditor to examine the financial records of any jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer under this Section. The State Auditor is further authorized to conduct these examinations and a local jurisdiction is required to participate in and cooperate fully with the examination.

ix. Boating Under the Influence Breath Test Fee, Section 50-21-114

Pursuant to Section 50-21-114, any individual convicted of, pleading guilty or nolo contendere to, or forfeiting bond for violating Section 50-21-112 (BUI) or 50-21-113 (BUI Per Se), and who was administered a breathalyzer examination at the time of arrest, must be assessed an additional fee of \$50.00 at the time of sentencing. This fee must be forwarded by the County Treasurer to the State Treasurer and credited to the General Fund of the State to defray any costs incurred by SLED and individuals and institutions attaining the samples forwarded to SLED.

x. Payment of the fine and assessment by installments, Section 14-1-209(A) and 3% collection cost charge, Section 14-17-725

When the fine and assessment are paid in installments, Section 35.11 of the Temporary Provisions of the General Appropriations Act suspends Section 14-1-209(B) for the fiscal year 2003 - 2004 and requires that 51.80722% of each installment be treated as a payment towards the assessment. The remaining 48.192771% is treated as a payment towards the fine. The fine amount must be further divided, with 56% of the amount being retained by the county, and 44% being remitted to the state. The assessment amount must further be divided, with 64.65 being transmitted to the state, and 35.35 being retained by the county for victims' services. Prior to making these computations, you must determine what other assessments may apply (conviction

surcharge, DUI assessments, etc.). Those charges must be collected separately and not included in the percentage splits explained above. Funds collected as installments should not be held until full payment is received but must be remitted each month to the County Treasurer. To compensate for any slight shift in funds, the division of the final installment payment should be adjusted so that the portion collected as the assessment does not exceed the amount originally imposed.

When an individual pays the fine and/or assessment through installments, Section 14-17-725 provides that an additional 3% of the installment payment must be collected as a collection cost charge. The collection cost is transmitted to the County Treasurer for deposit to the county general fund.

**See "Attachment A" for examples of the above mentioned collections and disbursements when cases are transferred from the general sessions court.** The docket sheets may be used to transmit the funds described above to the County Treasurer but the cases transferred from general sessions court should be recorded on docket sheets reserved for those cases only and clearly marked as such so that the County Treasurer can make the correct distribution to the State Treasurer. **"Attachment E"** may also be used to transmit these funds to the County Treasurer.

C. Magistrates' civil fees and costs

1. Schedules provided in Sections 8-21-1010 and 8-21-1060

The schedules of civil fees and costs which are to be collected by magistrates and deposited in the general fund of the county, as set forth above in V.A.5., are found in Sections 8-21-1020 and 8-21-1060 of the Code. These statutes also specify fees for proceedings on a coroner's inquest, for summoning a coroner's jury and witnesses, and mileage for serving criminal process. The fee for filing a civil action in magistrates court by summons and complaint is \$55, which includes \$5 plus mileage for service by the magistrate's constable. See Proviso 72.100 below.

All fees and costs collected by magistrates in civil cases must be turned over to the County Treasurer on the same time schedule as is required for criminal collections. A statement of civil revenues must also be submitted on a monthly basis to the county auditor.

Effective July 1, 2004, Section 72.100 Of the Temporary Provisions of the 2004/2005 General Appropriations Act requires that a \$25 assessment be imposed on all summons and complaints filed in magistrate court, and a \$10 assessment be imposed on all other civil filings in magistrate court, except restraining orders, which require no additional fee. The \$25 and \$10 assessment is in addition to the fees for civil filings required by Sections 8-21-1010 and 8-21-1060 discussed above. The \$25 assessment applies only to summons and complaints, and the \$10 assessment applies to ejectments, summary ejectments, claim and deliveries, and public sales. Again, no

filing fee, nor additional assessment, applies to the filing of a petition for a restraining order.

The \$25 and \$10 assessment must be separated from the original filing fee amount, separately identified on your transmittal sheet, and forwarded to your County Treasurer, who shall forward these funds to the State Treasurer for proper distribution. As discussed above, the original filing fee should be forwarded to your County Treasurer in placed in the county general fund. See “**Attachment K**” for a schedule of civil fees to be collected in magistrate court.

2. Exception, Section 8-21-1020

Although it is not absolutely clear due to a misreference in Section 8-21-1020, it is the general practice that any person may be relieved from payment of magistrates court costs provided by Section 8-21-1010 and 8-21-1060, including costs of constables, upon a finding of indigency by the magistrate.

3. Exception, Section 20-4-4(f)

Section 20-4-40(f) prohibits charging a filing fee for the filing of an order of protection from domestic abuse.

4. Exception, Section 16-3-1750(D)

Section 16-3-1750(D) prohibits charging a filing fee for filing a complaint and motion for a restraining order against harassment or stalking.

5. Other miscellaneous fee

Fee for issuing warrant for ejection of trespasser, see Section 15-67-630

## **VI. Municipal Courts**

### **A. General Rule for Distribution of Revenue**

1. Municipal Judges' criminal fines, penalties, or forfeitures, Section 14-25-85

Generally, the revenue generated from criminal fines, penalties, and forfeitures in municipal court is retained by the municipality. However, you may encounter nine exceptions to this rule. These exceptions, which are discussed below, are DUI and DUI Per Se, Section 56-5-2940; DUS, Section 56-1-460; bond estreatments, Section 17-15-260; insurance fraud, Section 38-55-560; cruelty to animals, Section 47-1-160; game or fish law violations, Sections 50-1-150 and 170; size and weight violations, Section 56-5-4160; carriers of household goods and hazardous waste for disposal, Section 58-23-590(E); and cases transferred from general sessions court, Section 22-3-545.

Every criminal fine and penalty collected by the municipal court is to be forthwith turned over by the municipal court clerk to the Municipal Treasurer for which such court is held. It is recommended that copies of the docket be transmitted with the monies to facilitate accounting of deposits with the treasurer.

2. Magistrates serving as Municipal Judges, Sections 14-25-25 and 22-1-70; Exception

A county magistrate may also serve as a municipal judge pursuant to a contract between the county and the city and an order of authorization executed by the Chief Justice. When a magistrate so presides over a municipal court, the fines and penalties imposed and collected shall be turned over to the City Treasurer rather than being remitted to the County Treasurer as normally required by Section 22-1-90.

An exception is provided by Section 22-1-70 in that when, by law any person is entitled, as an informer, to any portion of such fine or penalty, such portion shall immediately be paid over to the informer. In such event, the magistrate should execute an order requiring this payment and immediately turn over the informer's portion to the City Treasurer with a copy of the order for disbursement by the treasurer. This procedure will ensure a proper audit trail.

3. Assessment, Section 14-1-208

Section 35.11 of the Temporary Provisions of the General Appropriations Act, which suspends Section 14-1-208 for the fiscal year 2004-2005, requires any person who is convicted of, pleading guilty or nolo contendere to, or forfeiting bond for an offense tried in municipal court on or after **July 1, 2004** to pay an assessment in an amount equal to 107.5% of the fine actually imposed. If a portion of the fine is suspended, the assessment is calculated on the amount of the fine that is not suspended. This assessment also applies to municipal ordinances.

**The assessment cannot be waived, reduced, or suspended.** The amount collected as assessments must be forwarded each month to the Municipal Treasurer, who shall retain 11.16% of the revenue generated by the assessment for the municipality and transmit the remaining 88.84% by the fifteenth of each month to the State Treasurer on forms and in a manner prescribed by him.

The 11.16% retained by the municipality must be used exclusively for providing victim services as required by Article 15 of Title 16; specifically, those service requirements that are imposed on local law enforcement, local detention facilities, prosecutors, and the summary courts. First priority must be given to those victims' assistance programs which are required by Article 15 of Title 16 and second priority must be given to programs which expand victims' services beyond those required by Article 15 of Title 16. Any funds retained by the Municipal Treasurer which are not used

for victim services at the end of the fiscal year must be carried forward to the next year and used exclusively for services for victims of crimes. All unused funds must be separately identified in the municipality's adopted budget as funds unused and carried forward from previous years.

To ensure that fines and assessments imposed pursuant to this section and section 14-1-209(C) are properly collected and remitted to the State Treasurer, the annual independent external audit required to be performed by each municipality pursuant to Section 5-7-240 must include a review of the accounting controls over the collection, reporting and distribution of fines and assessments from the point of collection to the point of distribution and a supplementary schedule indicating all fines and assessments collected by the clerk of the municipal court, the amount of fines and assessments retained by the City Treasurer, and the amount fines and assessments remitted to the State Treasurer, and the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward. Within thirty days of the issuance of the audited financial statement, the municipality must submit a copy to the State Treasurer, and a statement of the actual cost associated with the preparation of supplementary schedule required in this subsection, 14-1-208(E). Upon submission to the State Treasurer, the city may retain and pay from the fines and assessments collected pursuant to this section the actual expense charged by the external auditor for the preparation of the supplementary schedule, not to exceed \$1,000 each year.

The clerk of court and Municipal Treasurer shall keep records of fines and assessments required to be reviewed under this section in the format determined by the city council.

#### 4. Surcharge on all convictions, Section 14-1-211

In addition to all other assessments and surcharges, a twenty-five dollar surcharge is imposed on all convictions obtained in municipal court, including municipal ordinances. The surcharge must not be imposed on convictions for misdemeanor traffic offenses. However, the surcharge applies to all violations of Section 56-5-2930, driving under the influence of liquor, drugs, or like substances, and Section 56-5-2933, DUI Per Se. **No portion of the surcharge may be waived, reduced, or suspended.** Any funds retained by the Municipal Treasurer pursuant to this Section must be deposited into a separate account for the exclusive use for all activities related to victims services. For the purpose of funds allocation and expenditure, these funds are a part of the general funds of the municipality. These funds must be appropriated for the exclusive purpose of providing victim as required by Article 15 of Title 16; specifically, those service requirements that are imposed on local law enforcement, local detention facilities, prosecutors, and summary courts. First priority must be given to those victims' assistance programs which are required by Article 15 of Title 16 and second priority must be given to programs which expand victims' services beyond those required by Article 15 of Title 16. These funds may be used for, but are not limited to, salaries,

equipment that includes computer equipment and Internet access, or other expenditures necessary for providing services to crime victims. All unused funds must be carried forward from year to year and used exclusively for victim services . All unused funds must be separately identified in the county's adopted budget as funds unused and carried forward from previous years.

The surcharge revenue retained by the city must be reported to the State Treasurer monthly in a form and manner required by that office. To insure that surcharges imposed pursuant to Section 14-1-211(A) are properly collected and remitted to the City Treasurer, the annual independent external audit required to be performed by each city pursuant to Section 5-7-240 must include a review of the accounting controls over the collection, reporting and distribution of surcharges from the point of collection to the point of distribution and a supplementary schedule detailing the amount of surcharges collected at the court level, the amount retained by the City Treasurer, the amount of funds allocated to victim services by fund source, how those funds were expended, and any carry forward balances.

5. Surcharge on all convictions, Law Enforcement Funding, Section 73.3, Part 1B Temporary Provisos

Effective July 1, 2004, in addition to all other assessments and surcharges, during fiscal year 200-05, a twenty-five dollar surcharge is levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in municipal court, including municipal ordinances. **No portion of the surcharge may be waived, reduced, or suspended.** The revenue collected from the surcharge must be retained by the jurisdiction which heard or processed the case and paid to the State Treasurer within thirty days after receipt. These funds should be clearly designated when transmitted to your Municipal Treasurer and then forwarded to the State Treasurer.

Section 73.3 (D) provides that the State Treasurer may request the State Auditor to examine the financial records of any jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer under this Section. The State Auditor is further authorized to conduct these examinations at a local jurisdiction is required to participate in and cooperate fully with the examination.

6. Surcharge on convictions of Sections 56-5-2930(DUI) and 56-5-2933(DUI Per Se), Section 14-1-211(A)(2)

Section 14-1-211(A)(2) requires that a one hundred dollar surcharge be imposed on all convictions of Sections 56-5-2930(DUI) and 56-5-2933(DUI Per Se). **No portion of the surcharge may be waived, reduced, or suspended.** These funds should be clearly designated when transmitted to your City Treasurer and then forwarded to the State Treasurer. The State Treasurer shall put these funds in a separate account to be used for spinal cord research at MUSC.

All one-time operating and administrative costs for county and municipal government related to computer upgrades or programming related to these surcharges shall be deducted from the revenue collected pursuant to (A)(2) before remission to the State Treasurer.

7. DUI assessment, Section 56-5-2995(A)

In addition to the assessments and surcharges discussed in VI.A.3., VI.A.4., VI.A.5., and VI.A.6. above, a twelve dollar assessment must be imposed for all convictions of Section 56-5-2930, DUI, and Section 56-5-2933, DUI Per Se, obtained in municipal court. These funds should be clearly designated and transferred to your City Treasurer for remittance to the State Treasurer for disbursement pursuant to Section 14-1-201.

8. Drug Court Surcharge, Section 33.7, Part 1B Temporary Provisos

Effective July 1, 2004, in addition to all other assessments and surcharges required to be imposed by law, during fiscal year 2004-05, a one hundred dollar surcharge is imposed on all misdemeanor drug offense convictions in the municipal court. **No portion of the surcharge may be waived, reduced, or suspended.** The revenue collected pursuant to this Section must be retained by the jurisdiction which heard or processed the case and paid to the State Treasurer within thirty days after receipt. These funds should be clearly designated when transmitted to your Municipal Treasurer and then forwarded to the State Treasurer.

Section 33.7 (D) provides that the State Treasurer may request the State Auditor to examine the financial records of any jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer under this Section. The State Auditor is further authorized to conduct these examinations at a local jurisdiction is required to participate in and cooperate fully with the examination.

9. Boating Under the Influence Breath Test Fee, Section 50-21-114

Pursuant to Section 50-21-114, any individual convicted of, pleading guilty or nolo contendere to, or forfeiting bond for violating Section 50-21-112 (BUI) or 50-21-113 (BUI Per Se), and who was administered a breathalyzer examination at the time of arrest, must be assessed an additional fee of \$50.00 at the time of sentencing. This fee must be forwarded by the County Treasurer to the State Treasurer and credited to the General Fund of the State to defray any costs incurred by SLED and individuals and institutions attaining the samples forwarded to SLED.



10. Administrative court costs in fraudulent check cases, Sections 34-11-70(b) and (c), and 34-11-90(c) and (d)

In most fraudulent check cases, the court is entitled to collect reasonable administrative court costs not to exceed forty-one dollars. This amount is collected from the prosecuting witness if the court dismisses the case for want of prosecution, Section 34-11-70(b), or from the defendant if the court dismisses the case upon satisfactory proof of restitution, Section 34-11-70(c). If the case goes to trial and the defendant is convicted, the cost shall be collected, Section 34-11-90(d), even if the sentence is required to be suspended as provided in Section 34-11-90(c).

Whenever there is a conviction, the assessment discussed in VI.A.3., VI.A.4., and VI.A.5. above must be collected along with the fine and administrative court cost. If the fine was ultimately suspended, the assessment is computed and collected based on the amount of the fine that is not suspended.

11. Payment of the fine and assessment by installments, Section 14-1-209(c) and 3% collection cost charge, Section 14-17-725

When the fine and assessment are paid in installments, Section 35.11 of the Temporary Provisions of the General Appropriations Act suspends Section 14-1-209(B) for the fiscal year 2004 - 2005 and requires that 51.80722% of each installment be treated as a payment towards the assessment. The remaining 48.192771% is treated as a payment towards the fine. The assessment amount must further be divided, with 88.84 being transmitted to the state, and 11.16 being retained by the municipality for victims' services. Prior to making these computations, you must determine what other assessments may apply (conviction surcharge, DUI assessments, etc.). Those charges must be collected separately and not included in the percentage splits explained above. Funds collected as installments should not be held until full payment is received but must be remitted each month to the City Treasurer. To compensate for this slight shift in funds, the division of the final installment payment should be adjusted so that the portion collected as the assessment does not exceed the amount originally imposed.

When an individual pays the fine, assessment, or restitution through installments, Section 14-17-725 provides that the municipal court must collect an additional 3% of the installment payment as a collection cost charge. The collection cost is transmitted to the Municipal Treasurer for deposit to the municipal general fund.

B. Exceptions to the general rule

We have identified ten exceptions, that may be encountered, to the general rule that the municipality receives all of the revenue from criminal fines, penalties, and forfeitures in municipal court.

1. DUI and DUI Per Se, \$100.00 Pull-Out, Section 56-5-2940

Section 56-5-2940 requires that \$100.00 of each fine imposed pursuant to Sections 56-5-2930 (DUI) and 56-5-2933 (DUI Per Se) must be forwarded to the State Treasurer and placed into a special restricted account to be used by the Department of Public Safety for the Highway Patrol. This applies to first and subsequent offenses of those statutes. The remainder of the fine, absent the assessments and surcharges discussed above, shall be retained by the municipality. These funds should be clearly designated in your monthly report to the Municipal Treasurer and State Treasurer.

2. DUS, \$100.00 Pull-Out, Section 56-1-460 (C)

Section 56-1-460(C) as it relates to Driving under Suspension requires that \$100.00 of each fine imposed pursuant to that section must be forwarded to the State Treasurer and placed into a special restricted account to be used by the Department of Public Safety for the Highway Patrol. The remainder of the fine shall be forwarded to the Municipal Treasurer and placed in the Municipal General Fund. This applies to first and subsequent offenses of those statutes. These funds should be clearly designated in your monthly report to the Municipal Treasurer and State Treasurer.

a. Exception, Section 12-37-2740, DUS for Failure to Pay Property Tax

An exception to the rule requiring \$100 of each Driving Under Suspension fine be "pulled out" for the benefit of the the Department of Public Safety is found at Section 12-37-2740, Driving Under Suspension For Failure to Pay Property Taxes. That section contains specific penalty provisions for such a violation which are separate and distinct from the penalties provided in Section 56-1-460. When handling those cases, reference should be made to that statute for the penalty requirements, and the \$100 "pull out" does not apply.

3. Bond estreatments, Section 17-15-260

If a case was originated by a municipality and the bond is estreated, Section 17-15-260 provides that the funds are divided as follows: 25% to the state general fund, 25% to the solicitor's office, 25% to the county general fund, and 25% to the municipality. The funds should be turned over to the Municipal Treasurer on a monthly basis and the state and county's share should be transmitted to the State Treasurer and County Treasurer.

a. Payment of estreatment in installments, Section 38-53-70

Section 38-53-70 provides that the court may allow the surety to pay an estreatment in installments for a period of up to six months. However, the surety must pay a handling fee to the court in an amount equal to 4% of the value of the bond. Per Order of the Chief Justice dated November 14, 2002, the 4% handling fee should be dispersed with the other monies estreated pursuant to VI.B.2. above.

4. Insurance fraud, Section 38-55-560

Section 38-55-560 requires that 100% of all criminal fines generated from violations of Section 38-55-170 or 540 must be transmitted to the Insurance Fraud Division of the Office of the Attorney General. The statute provides that SLED and the Attorney General divide these funds equally, and those two agencies have entered into a written whereby the Attorney General receives the funds and then makes the proper distribution to SLED. These funds should be clearly noted on your report to the Municipal Treasurer so that the proper amount of funds can be transmitted to Byron R. Roberts, Director, Insurance Fraud Division, Office of the Attorney General, P. O. Box 11549, Columbia, South Carolina 29211. The assessment discussed above in VI.A.3., VI.A.4., and VI.A.5. above should be collected on criminal insurance fraud violations. See "**Attachment I**" for use in transmitting these funds to the Municipal Treasurer.

5. Cruelty to animals, Section 47-1-60

Section 47-1-160 requires that, if the court determines that there was a nonprofit humane organization in the municipality or county materially involved in or aiding in the prosecution of a violation of any cruelty to animal offense found in Chapter 1 of Title 47 of the South Carolina Code of Laws, one half of the fine must be distributed to that organization. The remainder of the fine shall be retained by the municipality. These funds should be clearly designated on your report to your Municipal Treasurer so the proper amount of the fines is transmitted to the appropriate agency. The assessment discussed in VI.A.3., VI.A.4., and VI.A.5. above should be collected on all cruelty to animal violations. See "**Attachment J**" for use in transmitting these funds to your Municipal Treasurer.

6. Game or fish law violations, Sections 50-9-910, 50-5-25, 50-21-160, 50-23-220, and 50-9-920

Typically, game or fish law violations are disposed of in county courts. However, should you encounter such an offense, please follow these instructions. Section 50-9-910 requires that one hundred percent of all revenues from fines and forfeitures from violations of Chapters 1 through 16 of Title 50 (Fish, Game, and Wildlife), except for violations of marine resources laws, shall be transmitted to the Municipal Treasurer monthly. The treasurer then transmits the funds to the Department of Natural

Resources, Accounting Department by the 15<sup>th</sup> of each month, to be credited to the County Game and Fish Fund. The remittances shall be accompanied by a statement showing the name of all persons fined, the amount of each fine, the summons number and the court in which each fine was collected.

Section 50-5-25 provides for the distribution of all revenues from fines and forfeitures for violations of marine resource laws. Similar to the distribution discussed in the paragraph immediately above, that section provides that one hundred percent of these fines shall be transmitted to the Municipal Treasurer monthly, and then forwarded to the State Treasurer by the 15<sup>th</sup> of each month, to be credited to the Wildlife Department and deposited in the County Game and Fish Fund for the county in which the offense occurred.

Section 50-21-160 provides that 75% of all fine revenues generated pursuant to offenses contained within Chapter 21 of Title 50 shall be forwarded to the Municipal Treasurer monthly, and then forwarded to the Wildlife Department, Natural Resource Enforcement Division by the 15<sup>th</sup> of each month. 25% of those fines must be forwarded to the County Treasurer in which the fine is levied, and placed in the County General Fund.

Section 50-23-220 requires that all revenues received and collected pursuant to Chapter 23 of Title 50 (Titling of Watercraft and Outboard Motors) shall be forwarded to the Municipal Treasurer on a monthly basis, who shall forward these funds to the State Treasurer to be placed in a special fund for the Wildlife Department to be used for expenses in administering the provisions of Chapter 23. As information, the only penalty provision in that Chapter is Section 50-23-280.

Section 50-9-920 requires that revenue from fines and forfeitures for violations of "other sections" of this Title and for "all other offenses investigated or prosecuted by the Department" must be deposited with the State Treasury to the credit of the Game Protection Fund. The phrase "other sections" has been interpreted to include violations of Chapters 18, 19, and 25 of Title 50, since none of the Sections described above affect these Chapters. The phrase "all other offenses investigated or prosecuted by the Department" has been interpreted to include the list of offenses found in Section 50-3-410, as well as any other non-Title 50 offenses investigated or prosecuted by the Department. These funds should be forwarded to your Municipal Treasurer monthly, who shall then forward them to the State Treasurer.

All game or fish law violations are subject to the assessments set forth in VI.A.2., VI.A.3., and VI.A.4. above. The Department of Natural Resources monitors the disposition of all wildlife cases. Should a game or fish law violation be disposed of in your court, you may expect to receive an invoice similar to the one marked **"Attachment G"**.

7. Axle weight and gross weight violations, Section 56-5-4160

Section 56-5-4160 provides that all fines collected for violating the weight limits set by Section 56-5-4130 or Section 56-5-4140 must be deposited within 45 days in the account designated the "Size and Weight Revitalization Program Fund for Permanent Improvements". These funds should be clearly noted on your report to the Municipal Treasurer so that the proper amount of fines can be transmitted to the State Transport Police at 220 Executive Center Drive, Winthrop Building, Suite 200, Columbia, South Carolina 29210. The assessment discussed in VI.A.3. and VI.A.5., but not VI.A.4., above should be collected on weight violations.

8. Carriers of household goods and hazardous waste for disposal, Section 58-23-590(E)

Section 58-23-590(E) requires that 75% of each fine generated from a violation of Section 58-23-40 be deposited with the Office of Compliance with the Public Service Commission. The county retains the remaining 25% of the fine. These funds should be clearly noted on your report to the Municipal Treasurer so that the proper amount of fines can be transmitted to the Public Service Commission, Comptroller, Post Office Drawer 11649, Columbia, South Carolina 29211. The assessment discussed in VI.A.3., VI.A.4., and VI.A.5. above should be collected on these violations.

9. Tattooing Regulation Violation, Section 44-34-100(G)

R. 338, S. 104 amends the Code by adding Chapter 34 of Title 44, so as to legalize and regulate tattooing in this State. Section 44-34-100(G) provides that all criminal fines generated from a violation of that Chapter, or from Section 16-17-700 (which was amended by this Bill and now criminalizes violations of Chapter 34 of Title 44), be remitted to the Department of Health and Environmental Control. These revenues should be forwarded to your County Treasurer monthly, along with a list of the disposed cases, who shall remit them to the following address: DHEC, Bureau of Health Licensing, Attention: Dennis Gibbs, 2600 Bull Street, Columbia, SC, 29201. The assessment discussed in VI.A.3., VI.A.4., and VI.A.5. above should be collected on these violations. This Bill is effective upon the Governor's signature. The Bill has yet to be signed. However, it is not anticipate that these cases will appear in your court in the near future. You will be notified of the effective date upon signature of the Bill.

**See "Attachment C" for examples of the above mentioned collections and disbursements.** A transmittal form which may be used to remit the state's portion of the funds described above to the Municipal Treasurer can be found at **"Attachment F"**.

10. Cases transferred from the general sessions court, Section 22-3-545
  - a. General Rule

Section 22-3-545 establishes a procedure for transferring certain cases from the general sessions court to the municipal court for disposition and provides that the revenue generated by these cases shall be distributed as if the fines had been imposed in the circuit court. Likewise, the assessments and surcharges required in circuit court would be applied in cases transferred pursuant to Section 22-3-545. When handling these cases, please refer to V.B.9. in the magistrate section of this memorandum regarding distribution of revenues in the court of general sessions and the applicable surcharges and assessments.

The procedure for transferring cases pursuant to Section 22-3-545 does not affect the cases that are remanded to the municipal court for disposition on a lesser included offense within the court's jurisdiction.

**See "Attachment A" for examples of the above mentioned collections and disbursements when cases are transferred from the general sessions court. A transmittal form which may be used to remit the funds described above to the Municipal Treasurer can be found at "Attachment E".**