

7859 *Leblanc*



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

October 20, 2004

H. Lloyd Howard, Esquire
Landrum City Attorney
719 S. Howard Avenue
Landrum, South Carolina 29356

Dear Mr. Howard:

In a letter forwarded to this office you raised a question regarding the status of the offense of unlawful use of the telephone, as to whether it was a misdemeanor or felony offense, as to an individual convicted of such offense in 1988.

According to my review, the offense of unlawful use of the telephone was a misdemeanor offense in 1988. According to the history of S.C. Code Ann. Section 16-17-430 (2003), the law applicable to that offense in 1988 was Act No. 439 of 1967 which codified such offense at that time as Section 16-552.1 and classified the offense as a misdemeanor. The statute stated:

It shall be unlawful for any person anonymously or otherwise: (1) to use in a telephonic communication any words or language of a profane, vulgar, lewd, lascivious, or an indecent nature, or to threaten in a telephonic communication any unlawful act with the intent to coerce, intimidate, or harass another person, or to communicate or convey by telephone an obscene, vulgar, indecent, profane, suggestive, or immoral message to another person; (2) to telephone another repeatedly, whether or not conversation ensues, for the purpose of annoying or harassing another person or his family; (3) to make a telephone call and intentionally fail to hang up or disengage the connection for the purpose of interfering with the telephone service of another; (4) to telephone another and make any false statements concerning either the death or injury of any member of the family of the person who is telephoned with the intent to annoy, frighten or terrify that person; or (5) knowingly to permit any telephone under his control to be used for any purpose prohibited by this section.

Any person violating either items (1), (2) or (4) shall be guilty of a misdemeanor and, upon conviction, shall be punished in the discretion of the court; and any person violating either items (3) or (5) shall be guilty of a misdemeanor and,

Mr. Howard
Page 2
October 20, 2004

upon conviction, shall be subject to a fine of not more than one hundred dollars or imprisonment for not more than thirty days.”

The law was not amended again until 1993 by Act No. 184.

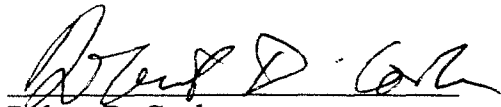
With kind regards, I am,

Very truly yours,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General