

The State of South Carolina

3714 Library



Office of the Attorney General

T. TRAVIS MEDLOCK  
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING  
POST OFFICE BOX 11549  
COLUMBIA, S.C. 29211  
TELEPHONE: 803-734-3970  
FACSIMILE: 803-253-6283

February 28, 1990

The Honorable Earl Holcombe  
Sheriff, Oconee County  
County Mail Room  
Walhalla, South Carolina 29691

Dear Sheriff Holcombe:

In a letter to this Office you raised several questions construing Section 23-1-15 of the Code. Such provision states

(a)ny real property which is used as a parking lot and is open to use by the public for motor vehicle traffic shall be within the police jurisdiction with regard to the unlawful operation of motor vehicles in such parking lot.

Such parking lots shall be posted with appropriate signs to inform the public that the area is subject to police jurisdiction with regard to unlawful operation of motor vehicles. The extension of police jurisdiction to such areas shall not be effective until the signs are posted.

In any such area the law enforcement agency concerned shall have the authority to enforce all laws or ordinances relating to the unlawful operation of motor vehicles which such agency has with regard to public streets and highways immediately adjoining or connecting to the parking area.

You first asked whether Section 23-1-15 applies to privately-owned and maintained parking lots open to the public, such as shopping center parking lots. If such is applicable, you asked whether it is necessary to comply with Section 56-5-6310 of the Code or any other requirement to give law enforcement traffic jurisdiction over such lot. Section 56-5-6310 et seq. provides for the application of the provisions of Chapter 5 of Title 56 of the State Code to private roads upon satisfaction of the requirements of such provision.

The Honorable Earl Holcombe  
Page 2  
February 28, 1990

In prior opinions of this Office it was determined that property used as a private parking lot may be posted pursuant to Section 23-1-15 so as to make such lot subject to police jurisdiction. See: Opinions dated May 11, 1989; October 2, 1985; September 23, 1981. Therefore, no other statutory requirements, such as those set forth in Section 56-5-6310, would have to be met to bring such area under police jurisdiction.

You also asked that if Section 23-1-15 is valid under such circumstances, what portions of parking lots could be considered roadways or highways for enforcement purposes. An answer to such question would depend upon an examination of the facts in each particular situation. This Office has consistently stated that an opinion of this Office is not adequate to resolve factual issues. See Opinion dated June 15, 1989. However, I would refer you to that portion of Section 23-1-15 which states that as to any parking lot posted, law enforcement can enforce "all laws or ordinances relating to the unlawful operation of motor vehicles which such agency has with regard to streets and highways...."

You next asked whether Section 56-5-2510 dealing with improper parking outside of a business or residential district is applicable if a vehicle has room to pass around the standing vehicle. Such provision states:

(n)o person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the roadway outside a business or residential district when it is practicable to stop, park or leave the vehicle off the roadway. In any event an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of the stopped vehicle shall be available from a distance of two hundred feet in each direction upon the highway.

Assuming that you are referring to a situation such as that addressed in your letter involving a parking lot in a shopping center, it appears that Section 56-5-2510 would be inapplicable to such a parking lot. As referenced, such provision prohibits stopping any vehicle "upon the roadway outside a business or residential district." Pursuant to Section 56-5-520 of the Code, the term "business district" is defined as "

... the territory contiguous to and including a roadway when within any six hundred feet along such roadway there are buildings in use for business or industrial purposes, including but

The Honorable Earl Holcombe  
Page 3  
February 28, 1990

not limited to hotels, banks, office buildings, railroad stations and public buildings, which occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the roadway.

It appears that a shopping center would typically be construed as being in a business district. Therefore, a parking lot in a shopping center would not be included within Section 56-5-2510. See: Suber v. Smith, 243 S.C. 458, 134 S.E.2d 404 (1964).

You further asked whether privately-owned parking lots open to the public may regulate trespassing, parking after hours or loitering if there is compliance with Section 23-1-15. As emphasized in an opinion of this Office dated February 25, 1981,

... as a result of posting of notice ... (pursuant to Section 23-1-15) ..., the only laws which may be enforced are those relating to unlawful operation of vehicles upon public streets and highways. Such section would not authorize the enforcement of any regulations, such as in regard to parking, promulgated by the mall itself....

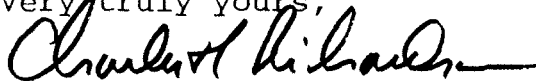
Therefore, compliance with Section 23-1-15 would not on its own authorize enforcement of other violations such as trespassing, parking after hours and loitering. Whether or not such offenses or any others may be enforced would depend upon the individual circumstances and the particular violations alleged.

In your last question you asked whether in circumstances where Section 23-1-15 is applicable, may owners or tenants post speed limits and other traffic control devices more restrictive than adjacent public highways. As stated above, Section 23-1-15 authorizes the enforcement of laws and ordinances relating to the unlawful operation of motor vehicles pertinent to adjoining streets and highways. The statute does not specifically authorize separate restrictions. As to speed limits generally, I would refer you to Sections 56-5-1510 and 56-5-1520 of the Code. Moreover, as noted in the prior opinion of this Office dated February 25, 1981 referenced above, Section 23-1-15 "does not authorize the enforcement of any regulations ... promulgated by a mall itself." Therefore, if the owners or tenants post speed limits or other traffic control devices more restrictive than what may be imposed on public highways, such would not be subject to enforcement by law enforcement officers.

The Honorable Earl Holcombe  
Page 4  
February 28, 1990

With best wishes, I am


Very truly yours,



Charles H. Richardson  
Assistant Attorney General

CHR/an

REVIEWED AND APPROVED BY:



Robert D. Cook  
Robert D. Cook  
Executive Assistant for Opinions