

1979 WL 43103 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 8, 1979

***1 RE: Your letter of September 13, 1979**

Mr. Dennis C. Harmon
City Administrator
P. O. Box 236
Goose Creek, South Carolina 29445

Dear Mr. Harmon:

Your letter of September 13, 1979 has been referred to me for response. You requested an opinion of this office on the following three questions:

1. Does § 56-5-3180(b) prohibit all types of solicitations for contributions (charitable and otherwise) on highways?
2. Does § 56-5-3180(b) prohibit the solicitation of charitable contributions from highway right-of-ways?
3. Is it allowable for an organization to solicit charitable contributions from highway right-of-ways provided persons do not enter the roadway nor impede the flow of traffic?

Section 56-5-3180(b) as amended states:

No person shall stand on a highway for the purpose of soliciting employment, business or contributions from the occupant of any vehicle.

The definition of a 'highway' is found in § 56-5-430 and reads as follows:

The entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel is a 'street' or 'highway'.

In answer to the first question posed by your letter, it is the opinion of this office that § 56-5-3180(b) does prohibit all types of solicitations for contributions, charitable and otherwise on highways. The section makes no distinction between charitable solicitations and any other types of solicitations.

In answer to question number two which your letter poses, it is the opinion of this office that § 56-5-3180(b) does prohibit the solicitation of charitable contributions from highway right of ways. Section 56-5-3180(b) must be read in conjunction with § 56-5-430 which defines a highway to include the entire width between boundary lines of every way publicly maintained . . . Therefore 'way' includes all portions of the highway right of way. This is consistent with damage claim cases defining the Department's scope of duty in maintaining highways. See [Bunton v. South Carolina State Highway Department](#), 186 S.C. 463, 196 S.E. 188 (1938), and [Stanley v. South Carolina State Highway Department](#), 249 S.C. 230, 153 S.E.2d 687 (1967).

In answer to question number 3 posed by your letter, it is the opinion of this office that it is not allowable under § 56-5-3180 for an organization to solicit charitable contributions from highway right of ways even though persons do not enter the roadway nor impede the flow of traffic. As was indicated in the response to the preceding question, highway

right of ways are included in the prohibition of § 56-5-3180(b) and therefore no person may stand on the right of way for the purpose of soliciting contributions. The fact that the person does not enter the roadway cannot be controlling since the statute itself uses the term 'highway'. Likewise the fact the the person soliciting contributions does not impede the flow of traffic is not the act prohibited by the statute, rather the act of standing on the highway for the named purposes is what is prohibited whether traffic flow is impeded or not.

***2** If you have any further questions regarding this matter, please do not hesitate to contact this office.

Sincerely,

Patrick M. Teague
Staff Attorney

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