

1978 WL 35184 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 25, 1978

***1 RE: Definition of Dwelling**

J. P. Gable, Sheriff
McCormick County
P. O. Box 795
McCormick, S.C. 29835

Dear Sheriff Gable:

You have inquired as to whether a mobile home can be considered a 'dwelling' for the purposes of defining crime of burglary. [Section 16-11-10 of the South Carolina Code](#) of Laws (1976) defines 'dwelling house' in cases of burglary, arson and other criminal offenses:

With respect to the crimes of burglary and arson and to all criminal offenses which are constituted or aggravated by being committed in a dwelling house, any house, outhouse, apartment, building, erection, shed or box in which there sleeps a proprietor, tenant, watchman, clerk, laborer or person who lodges there with a view of the protection of property shall be deemed a dwelling house, . . .

A common law burglary is an offense against the security of the habitation and to prosecute the offense the breaking and entering must be of the habitation of another, 12 C.J.S., Burglary, Section 16 at 678. The section cited above reflects this common law view. Therefore, it follows that if a mobile home constitutes the habitation of another, i.e. the place where he sleeps, then such a mobile home would be considered a dwelling house as defined above. Cases from other jurisdictions support the view that mobile homes be considered 'dwelling houses'. See, [State v. Ryun](#), — Mo. App. —, 549 S.W.2d 141; [People v. Winhoven](#), 65 Mich. App. 522, 237 N.W.2d 640.

Therefore, it is the opinion of this Office that a mobile home which is regularly used as a place of habitation wherein any person regularly sleeps is a 'dwelling house' for the purposes of [Section 16-11-10](#). Then, if the mobile home is broken into during the night time by an individual intending to commit a felony, that individual may be charged with the crime of burglary.

Sincerely,

Scott Elliott
Staff Attorney

Indictment for violation of Section 7206(1), Internal Revenue Code, Title 26, is an indictment for an offense involving moral turpitude and the Governor has discretionary authority to suspend a person indicted for this offense, pursuant to [Article VI, Section 8 of the Constitution](#).

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