

1978 WL 35273 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 20, 1978

*1 The Honorable David F. McInnis
Member
House of Representatives
Box 1815
Sumter, South Carolina 29150

Dear Mr. McInnis:

In response to your letter of December 14th, I have examined a copy of the magazine 'High Times.' Without question, this magazine does portray the narcotics trade and use of narcotics in a glorified manner and thus encourages the use of narcotics. Nonetheless, the contents of the magazine would appear to be protected by the First Amendment to the United States Constitution, much as would a person not be guilty of a crime who vocally advocates the use of narcotics but who does not possess them or directly aid in their transportation or sale. Further, the only possible statute under which the magazine could be seized would be [Section 44-53-520 of the Code of Laws of South Carolina](#), 1976, and this statute would not appear to be applicable. This statute does provide in part that '[a]ll books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this article' are subject to forfeiture. However, I do not feel that one could validly say that the magazine 'High Times' is used, or intended for use, in the violation of the South Carolina Controlled Substances Act, such as to fall under this statute. Thus, unless the magazine should run afoul of obscenity laws, its sale and transportation would appear to be legal.

With kind regards, I am,
Yours very truly,

Robert N. Wells, Jr.
Assistant Attorney General

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