

1974 WL 27918 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 14, 1974

\*1 Mr. Dennis G. Davis  
Project Coordinator  
S. C. Appalachian Council of Governments  
Drawer 6668  
Greenville, South Carolina 29606

Dear Dennis:

I am in receipt of your letter of August 7 in which you inquire about Section 12 of Act No. 975 of the 1974 Acts and Joint Resolutions. Specifically, you have asked whether or not the provisions of the Act would apply to an automobile which is covered by a tarpaulin or some sort of similar cover. Section 12 of the Act provides in relevant parts that 'the provisions of this Act shall not apply to motor vehicles housed or protected from the elements unless any such motor vehicle presents some safety or health hazard, or constitutes a nuisance.'

This section, as I view it, is designed to protect automobiles from confiscation when an individual has evidenced some form of ownership or control over that automobile and indicates that he still has some interest in the vehicle. In that regard, I would advise that an automobile not be confiscated if, as indicated in your letter, it is protected by a tarp or similar covering, unless there is an independent determination that the automobile presents a safety or health hazard, or constitutes a nuisance. In this regard, I direct your attention to Section 16 of the Act which allows an owner to sue a confiscating agency for conversion when an automobile has not been properly confiscated.

Dennis, I enjoyed hearing from you again and I wish you all the luck in the world in your new job.

With kindest regards,  
Sincerely,

Ellison D. Smith, IV  
Assistant Attorney General

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