

1974 S.C. Op. Atty. Gen. 256 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3846, 1974 WL 21349

Office of the Attorney General

State of South Carolina

Opinion No. 3846

August 26, 1974

***1 The word ‘public highway’ as used in § 16–396, 1962 South Carolina Code of Laws (as amended), as applied to the State Highway System, means the entire area within the right-of-way.**

Office of Solid Waste Management
Spartanburg County

You have requested an opinion concerning the definition of public highways used § 16–396, 1962 South Carolina Code of Laws (as amended).

Section 16–396 South Carolina Code of Laws (as amended) provides as follows:

Dumping trash, refuse or dirt on property of another or on public waters, highways, ocean or riverfront, etc.; penalties.— It shall be unlawful for any person without written permission to dump or leave trash, refuse or garbage on any property belonging to another or on along any public waters, public highway, ocean or riverfront, river, harbor or beach in this State. Any violation of this section shall be punishable by a fine or not less than fifty dollars nor more than two hundred dollars or by imprisonment for not more than thirty days, and in addition any person violating this section may be required to remove from the highway any such trash, refuse or garbage dumped or left on the highway; *provided*, that the Wildlife and Marine Resources Department shall have primary responsibility for the enforcement of the provisions as they relate to the public waters, ocean, rivers, harbors or beaches but this proviso shall not preclude enforcement by other law enforcement agencies or officers; *provided*, that notwithstanding any other provision of law magistrates shall have jurisdiction to try violations of the provisions of this section. *Provided, further*, that the court, in lieu of any fine imposed, may direct the substitution of litter-gathering labor under the supervision of the court, not exceed one hour for each five dollars of the fine imposed.

Section 33–1 provides in pertinent part that a highway is a general term ‘denoting a public way for the purpose of vehicular travel, including the entire area within the right of way, and the terms shall include roadways, pedestrian facilities, bridges, tunnels, viaducts, drainage structures and all other facilities commonly considered component parts of the highways, streets or roads.’ See also *Blue Ridge Realty Co. v. Williamson*, 247 S. C. 112, 145 S.E. 2nd 192 (1965). For purposes of § 16–396, 1962 South Carolina Code of Laws (as amended), the term public highway for purposes of the state highway system means the entire area within the right of way.

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