

1974 S.C. Op. Atty. Gen. 329 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3896, 1974 WL 21392

Office of the Attorney General

State of South Carolina

Opinion No. 3896

November 26, 1974

**\*1 The South Carolina State Highway Department has authority to limit the use of parts of State highways either to buses or to buses and car pools by:**

**(a) Reserving specified lanes for the exclusive use of these high occupancy vehicles, or,**

**(b) In the case of controlled access facilities during period of high traffic demand allowing only the high occupancy vehicles to enter freeway systems.**

Silas N. Pearman

Chief Highway Commissioner

You have requested an opinion as to whether the South Carolina State Highway Department has the authority to limit the use of parts of freeways and other highways either to buses or to buses and carpools carrying a specified minimum number of passengers. This would be accomplished either by reserving specified lanes for the exclusive use of these high occupancy vehicles or in the case of controlled access facilities during the periods of high traffic demand by allowing only the high occupancy vehicles to enter the freeway. The purpose of such limitation would be increased safety and efficiency. I am of the opinion that the Department has such authority.

As has been often stated, the powers of the Highway Department are derived from the legislature. Because the Department has no inherent power, all powers sought to be exercised must be derived from legislation. *Southern Rwy. Co. v. South Carolina State Highway Department*, 237 S.C. 75, 115 S.E. 2nd 685 (1960). The Department has been given the statutory power to mark state highways with appropriate directions for travel and regulate the travel and traffic along such highways subject to the laws of this state and to carry out highway safety programs. Code of Laws of South Carolina § 33–71(3), (7) (1962). The Department also has the authority to adopt a manual of standards and specifications for uniform system of traffic control devices for use on the highways and streets within the state, and the drivers or vehicles on state highways must obey traffic control devices lawfully placed by the Department. Code of Laws of South Carolina §§ 46–301, 46–304 (1962). See *Rochester v. Bussey*, 251 S.C. 347, 162 S.E. 2nd 841 (1968).

It would appear that based on the particular duties imposed on the Department by these statutes, by necessary implication the Department has the authority to regulate the use of state highways rights-of-way to increase safety and the efficiency of freeways and other highways in the manner described herein.

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