

1974 WL 27544 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 16, 1974

**\*1 Re: Advertising signs with multi-color flashing lights along highways**

Mr. Christopher J. Gintz  
Administrative Officer  
Lexington County Sheriff's Department  
Lexington, South Carolina 29072

Dear Mr. Gintz:

Your letter of December 9, inquiring as to the legality of advertising signs with multi-color flashing lights parked on portable trailers along major access routes in Lexington County, has been directed to me for response. I shall assume that the signs with which you are concerned are located upon private property, inasmuch as those, if any, located within the right-of-way constitute, of course, an encroachment and may be removed through appropriate procedures. Cf. [Ankrim v. South Carolina State Highway Department](#), 251 S.C. 42, 159 S.E.2d 911 (1968).

There is no statute which declares such signs located on private property along the highway to be illegal per se; however, Section 46-311 of the South Carolina Code of Laws (1962 provides in pertinent part as follows:

No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which (a) purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, (b) attempts to direct the movement of traffic or (c) hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal. . . . This provision shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs. Every such prohibited sign, signal or marking is hereby declared to be a public nuisance, and the authority having jurisdiction over the highway may remove it or cause it to be removed without notice.

Thus, the appropriate authority may cause a particular sign to be removed if it determines the sign to fall within one of the prohibited categories. While notice is specifically not required by the statute, the better course of action may be to give notice to the person who placed the sign in view of the highway.

Your attention is also directed to Section 33-591.11 of the Code, as amended, which is entitled 'Highway Advertising Control Act.' Its applicability to the problem with which you are confronted is doubtful, however, not only because it attempts to control advertising only along interstate and federal-aid highway systems, but also because it specifically excepts on-premises signs advertising activities conducted on the property upon which they are located from its scope, South Carolina Code § 33-591.2(a)(6) (Cum. Supp. 1973), unless they are of a nature which would also render them offensive to Section 46-311, see South Carolina Code § 33-591.2(b), (d) (Cum. Supp. 1973). Furthermore, removal procedures thereunder, South Carolina Code § 33-591.5 (Cum. Supp. 1973), are more complex than pursuant to Section 46-311.

**\*2** I trust you will not hesitate to contact this office in the event that we can be of further assistance to you.

Very truly yours,

Sidney S. Riggs, III  
Staff Attorney

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