

1973 S.C. Op. Atty. Gen. 92 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3496, 1973 WL 20958

Office of the Attorney General

State of South Carolina

Opinion No. 3496

March 20, 1973

\*1 Honorable Caldwell T. Hinson  
Member  
House of Representatives  
Lancaster County  
1115 Chesterfield Avenue  
Lancaster, South Carolina 29720

Dear Mr. Hinson:

You have requested that this office advise you whether or not it would be constitutionally permissible for the General Assembly to pass an act which would make it illegal to show x-rated movies in Lancaster County. Article 3, Section 34 of the Constitution of South Carolina, prohibits special legislation in a number of specified areas. Subsection IX of Section 34 provides that: In all of the cases where a general law can be made applicable, no special law shall be enacted.

In a fairly recent case in which the question of special legislation was an issue, our Supreme Court stated that any classification must be based upon differences which are either defined by the Constitution, or are natural or intrinsic, and which suggest a reason that may rationally be held to justify the diversity in the legislation. It must not be arbitrary for the mere purpose of classification. The class must be characterized by some substantial qualities or attributes which render such legislation necessary or appropriate for the individuals of the class.

[Elliott, et al. v. Sligh](#), 233 S.C. 161, 165, 166, 103 S.E.2d 923 (1958). In the [Sligh](#) case, our Supreme Court struck down a statute which by its terms applied only to two counties and made it a criminal offense to sell fireworks therein. The legislation which was in issue in the [Sligh](#) case is substantially similar in form to the legislation which you have inquired about and, therefore, the [Sligh](#) decision would render such an act null and void.

I also direct your attention to a 1965 opinion of the Attorney General, Op. No. 1825, which concluded that a bill which was introduced to prohibit the practice of fortunetelling in York County was violative of Article 3, Section 34, paragraph 9 of the Constitution. It, therefore, is the opinion of this office that any legislation which seeks to prohibit the showing of x-rated movies in a single county would run afoul of the constitutional prohibition against special legislation. I trust that this sufficiently answers the question which you posed.

Sincerely,

Ellison D. Smith, IV  
Assistant Attorney General

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