CHAPTER 7

Obstruction or Damage to Roads or Drainage

ARTICLE 1

Damage Generally

**SECTION 57‑7‑10.** Negligent, willful, or wanton damage to highways.

 Any person who shall negligently, wilfully or wantonly damage a highway, highway facility, highway structure or trees or shrubs on a highway shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars or imprisoned for not more than thirty days. Any such person shall also be liable to the proper highway authorities in charge for the cost of such injury or damage in a civil action.

HISTORY: 1962 Code Section 33‑451; 1952 Code Section 33‑451; 1949 (46) 466.

CROSS REFERENCES

Applicability of provisions pertaining to use of uniform traffic ticket, see Section 56‑7‑10.

Prohibition of electrical wires within fifty yards of road, see Section 58‑27‑1530.

Library References

Highways 182.

Westlaw Topic No. 200.

C.J.S. Highways Section 398.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Automobiles and Other Motor Vehicles Section 225, Negligence.

NOTES OF DECISIONS

In general 1

1. In general

Owners of property abutting roadway shoulder owed no common law duty to motorists who were injured when their automobile was struck head on by another vehicle that had lost control when it veered onto the shoulder, thus precluding negligence action against owners; common law only imposed duty upon owners of abutting land in situations in which an artificial roadway hazard was created by owners, and ruts on shoulder that purportedly caused other vehicle to lose control, rather than an artificial condition, were the natural consequences of highway use, which exist all along the shoulders of a highway, especially a curving scenic road such as the one on which accident occurred. Skinner v. South Carolina Dept. of Transp. (S.C. 2009) 383 S.C. 520, 681 S.E.2d 871. Automobiles 289

Owners of property abutting roadway shoulder owed no statutory or regulatory duty to motorists who were injured when their automobile was struck head on by another vehicle that had lost control when it veered onto the shoulder, thus precluding negligence action against owners; neither Department of Transportation (DOT) regulations, which specifically imposed responsibility for maintaining rights‑of‑way upon DOT, nor statutes, which prohibited persons from damaging roadways, imposed a duty upon owners to maintain a public road or warn of hazards thereon. Skinner v. South Carolina Dept. of Transp. (S.C. 2009) 383 S.C. 520, 681 S.E.2d 871. Automobiles 289

**SECTION 57‑7‑20.** Putting foreign substances on highways.

 (A) No person may place, throw, or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, or any other substance or object likely to injure any person, animal, or vehicle upon the highway. Any person who drops or permits to be dropped or thrown upon any highway any destructive or injurious material shall remove it immediately or cause it to be removed. Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from the vehicle. A violation of any of the provisions of this section is punishable by a fine of not more than one hundred dollars or imprisonment for not more than thirty days.

 (B) If any person knowingly, with malicious intent, violates subsection (A), he must be punished by a fine of not less than two hundred nor more than one thousand dollars or imprisoned for not less than ten nor more than sixty days.

 (C) If any person knowingly, with malicious intent, violates the provisions of subsection (B) and causes personal injury, upon conviction, he must be punished by a fine of not less than five hundred nor more than two thousand dollars or imprisoned for not less than one nor more than three years, or both.

 (D) If any person knowingly, with malicious intent, violates the provisions of subsection (C) and a death results, upon conviction, he must be punished as provided in Section 16‑3‑20.

HISTORY: 1962 Code Section 33‑452; 1952 Code Section 33‑452; 1949 (46) 466; 1988 Act No. 300.

CROSS REFERENCES

Applicability of provisions pertaining to use of uniform traffic ticket, see Section 56‑7‑10.

Dumping trash, etc., on or along public highways, see Section 16‑11‑700.

Violent crimes defined, see Section 16‑1‑60.

Library References

Highways 153 to 164.

Westlaw Topic No. 200.

C.J.S. Gas Section 128.

C.J.S. Highways Sections 334 to 387.

**SECTION 57‑7‑30.** Use of chains on motor vehicles.

 It shall be unlawful to operate motor vehicles with chains upon or around the wheels contrary to such regulations for the use of chains as may be adopted and promulgated by the Department. A violation of this section shall be punishable by a fine of not more than one hundred dollars or imprisonment for not more than thirty days.

HISTORY: 1962 Code Section 33‑453; 1952 Code Section 33‑453; 1949 (46) 466.

Library References

Automobiles 15, 337.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 49 to 50, 942 to 943, 1709 to 1714.

**SECTION 57‑7‑40.** Injuring milepost or milestone.

 Any person who shall cut down, burn or deface any milepost or milestone erected by the governing body or county supervisor of any county shall, upon conviction thereof, forfeit and pay the sum of ten dollars, to be recovered by indictment or information before any court of competent jurisdiction.

HISTORY: 1962 Code Section 33‑454; 1952 Code Section 33‑454; 1942 Code Section 1611; 1932 Code Section 1611; Cr. C. ‘22 Section 575; Cr. C. ‘12 Section 621; Cr. C. ‘02 Section 446; G. S. 1065; R. S. 357; 1871 (15) 666.

Library References

Highways 182.

Westlaw Topic No. 200.

C.J.S. Highways Section 398.

**SECTION 57‑7‑50.** Cutting trenches or laying pipes or tracks in state highways or bridges; permit.

 It shall be unlawful for any person to cut trenches or lay pipes or tracks through, under, over or on any State highway or bridge without first obtaining a permit from the State Highway Engineer. A violation of this section shall be punishable by a fine of not more than one hundred dollars or imprisonment for not more than thirty days.

HISTORY: 1962 Code Section 33‑455; 1952 Code Section 33‑455; 1949 (46) 466.

CROSS REFERENCES

Drainage ditch crossing highway, see Section 49‑19‑1480.

Library References

Highways 153 to 164.

Westlaw Topic No. 200.

C.J.S. Gas Section 128.

C.J.S. Highways Sections 334 to 387.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Automobiles and Other Motor Vehicles Section 225, Negligence.

NOTES OF DECISIONS

In general 1

1. In general

Owners of property abutting roadway shoulder owed no statutory or regulatory duty to motorists who were injured when their automobile was struck head on by another vehicle that had lost control when it veered onto the shoulder, thus precluding negligence action against owners; neither Department of Transportation (DOT) regulations, which specifically imposed responsibility for maintaining rights‑of‑way upon DOT, nor statutes, which prohibited persons from damaging roadways, imposed a duty upon owners to maintain a public road or warn of hazards thereon. Skinner v. South Carolina Dept. of Transp. (S.C. 2009) 383 S.C. 520, 681 S.E.2d 871. Automobiles 289

**SECTION 57‑7‑60.** Excavating in highways not in state highway system; permit.

 Any person desiring to make any excavation for any purpose in or across any road outside any incorporated city or town, not in the State highway system, shall make and file with the county supervisor an application in writing for permission to make such excavation. Such application shall state fully the nature, purpose, extent and depth of the proposed excavation and shall contain such further information as may be required by the supervisor. Before such permission shall be granted the applicant shall execute and deposit in the office of the supervisor a good and sufficient bond of indemnity, or cash, in such sum as may be required to repair the road and restore it to as good condition as to foundation and surface as it was before being excavated. When such excavation is to be made by a solvent public utility, such bond may be executed by the utility without additional surety.

HISTORY: 1962 Code Section 33‑456; 1952 Code Section 33‑456; 1942 Code Section 5853‑1; 1941 (42) 274.

CROSS REFERENCES

Enlargement of existing bridges, see Section 49‑19‑1460.

**SECTION 57‑7‑70.** Permit not required for municipality owning waterworks or sewerage outside limits.

 If any city or incorporated town owns its own waterworks or sewerage, which extends beyond the city or town limits, the city or town may in any particular case, after giving written notice to the county supervisor of its desire so to do and receiving the consent of the supervisor, proceed with the work without compliance with the requirements of Section 57‑7‑60, and in any such case such city or town shall be responsible to the county for the repair of the road, it being optional with the city or town to bring itself within the provisions of this section with the consent of the supervisor.

HISTORY: 1962 Code Section 33‑457; 1952 Code Section 33‑457; 1942 (42) 1602.

**SECTION 57‑7‑80.** Use of vehicles or loads that drag on road.

 It shall be unlawful to operate upon any of the public highways of this State any two‑wheeled timber carts with tongue or small wheel attached thereto which comes in contact with the road, and it shall also be unlawful to operate any vehicle over any such highway for the purpose of carrying timber or other loads by which timber or any other character of load is allowed to strike or drag the surface of the road. But this provision does not apply to four‑wheeled lumber carts when the load is so suspended as not to come in contact with the road. A violation of this section shall be punishable by a fine of not more than one hundred dollars or imprisonment for not more than thirty days.

HISTORY: 1962 Code Section 33‑463; 1952 Code Section 33‑463; 1949 (46) 466.

CROSS REFERENCES

Applicability of provisions pertaining to use of uniform traffic ticket, see Section 56‑7‑10.

Library References

Automobiles 15, 337.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Sections 49 to 50, 942 to 943, 1709 to 1714.

**SECTION 57‑7‑90.** Unlawful to camp within right‑of‑way of a highway; penalty.

 (A) For purposes of this section, the term “camp” means camping for more than forty‑eight hours.

 (B) It is unlawful for any person to camp, set fires, or cook within the right of way of a highway open to vehicular traffic. A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days or such other lesser disposition, penalty, or nonpenalty, as the court determines.

HISTORY: 2012 Act No. 224, Section 3, eff June 18, 2012.

Library References

Highways 163(1).

Westlaw Topic No. 200.

ARTICLE 3

Obstructions and Drainage

**SECTION 57‑7‑210.** Obstructions in highways.

 It shall be unlawful for any person wilfully to obstruct ditches and drainage openings along any highway, to place obstructions upon any such highway or to throw or place on any such highway any objects likely to cut or otherwise injure vehicles using them. A violation of this section shall be punishable by a fine of not more than one hundred dollars or imprisonment for not more than thirty days.

HISTORY: 1962 Code Section 33‑491; 1952 Code Section 33‑491; 1949 (46) 466.

CROSS REFERENCES

Dumping trash, etc., on or along public highways, see Section 16‑11‑700.

Library References

Highways 153 to 164.

Westlaw Topic No. 200.

C.J.S. Gas Section 128.

C.J.S. Highways Sections 334 to 387.

NOTES OF DECISIONS

In general 1

Permanent obstructions 2

1. In general

This section applies to neighborhood roads, which the public have acquired the right to use by prescription. State v Tyler (1899) 54 SC 294, 32 SE 422. State v Floyd (1893) 39 SC 23, 17 SE 505. State v Sartor (1847) 33 SCL 60. State v Toale (1906) 74 SC 425, 54 SE 608. State v Knotts (1905) 70 SC 400, 50 SE 9. Earle v Poat (1902) 63 SC 439, 41 SE 525; State v Washington (1908) 80 SC 376, 61 SE 896. State v Mellette (1916) 106 SC 224, 91 SE 4. State v Harden (1879) 11 SC 360.

The question of where the line of the highway runs is a question of fact upon which the court can express no opinion. Steverson v. Orangeburg County (S.C. 1924) 128 S.C. 335, 121 S.E. 789.

In the dissenting opinion, it was held that a culvert placed at the intersection of a highway and a neighborhood road was not a part of the highway, in Steverson v. Orangeburg County (S.C. 1924) 128 S.C. 335, 121 S.E. 789.

This section is applicable only to the obstruction of public highways, that is, those highways that are under the jurisdiction of the State or county authorities, such as are laid out or improved at public expense. State v. Mellette (S.C. 1916) 106 S.C. 224, 91 S.E. 4.

Whether logs are placed in highway to protect the land of defendant or to obstruct the highway is for the jury, and if so placed as to obstruct the road by design, defendant is guilty. State v. Havird (S.C. 1911) 88 S.C. 227, 70 S.E. 721.

Adverse use to establish prescriptive right. State v. Rodman (S.C. 1910) 86 S.C. 154, 68 S.E. 343.

As to what are public roads, see Kirby v. Southern Ry. (S.C. 1902) 63 S.C. 494, 41 S.E. 765.

The actual opening of road by county commissioners may be shown by any witness who knows the fact. State v. Kendall (S.C. 1899) 54 S.C. 192, 32 S.E. 300.

The proceedings of the commissioners in opening a road may be collaterally attacked for jurisdictional defects, but not for mere irregularities. State v. Kendall (S.C. 1899) 54 S.C. 192, 32 S.E. 300.

Testimony as to plat showing survey of road. State v. Crocker (S.C. 1897) 49 S.C. 242, 27 S.E. 49.

The mere obstructing of a highway is in itself a public nuisance. State v. Harden (S.C. 1879) 11 S.C. 360.

2. Permanent obstructions

An indictment for obstructing a highway by building a house thereon cannot be based on this section, as this section applies only to temporary obstructions. State v. Wolfe (S.C. 1901) 61 S.C. 25, 39 S.E. 179.

The court of sessions has concurrent jurisdiction with the magistrate court of one indicted for willfully obstructing and closing the public road by erecting a house thereon. State v. Wolfe (S.C. 1901) 61 S.C. 25, 39 S.E. 179.

**SECTION 57‑7‑220.** Removal of obstructions in highways.

 Any time during the year when any public highway shall be obstructed, any overseer of the district in which it may be shall forthwith cause such obstruction to be removed.

HISTORY: 1962 Code Section 33‑493; 1952 Code Section 33‑493; 1942 Code Section 5828; 1932 Code Section 5828; Civ. C. ‘22 Section 2921; Civ. C. ‘12 Section 1946; 1902 (23) 1007.

Library References

Highways 157.

Westlaw Topic No. 200.

C.J.S. Highways Sections 339 to 343, 359, 371 to 382.

**SECTION 57‑7‑230.** Speed‑control devices in certain areas not deemed obstructions.

 (1) Municipalities or counties may, upon roads and streets in residential areas or school zones, construct and maintain speed‑control devices as they deem necessary upon the basis of an investigation of the area. Such devices shall consist of a mound, rib or hump with sloping sides, extending across a road or street, and not exceeding six inches in height above the street or road surface. Provided, however, the speed limit in any such area shall be posted at twenty‑five miles per hour or less and signs shall be erected warning of the existence of the devices.

 (2) Speed‑control devices, when constructed and posted according to this section, shall not be deemed obstructions of the road or street, and no action may be brought on behalf of any party against a municipality or county for damages occasioned thereby.

HISTORY: 1962 Code Section 33‑494; 1969 (56) 635.

CROSS REFERENCES

General structure, organization, powers, duties, functions and responsibilities of all municipalities, see Sections 5‑7‑10 et seq.

Library References

Highways 153.

Westlaw Topic No. 200.

C.J.S. Gas Section 128.

C.J.S. Highways Sections 334 to 338.

**SECTION 57‑7‑240.** Obstruction of roads by railroad cars and other obstacles.

 If any person shall obstruct unnecessarily any street, public road or highway by permitting any railroad car or locomotive to be or remain upon or across any street, public road or highway for a longer period than five minutes, after notice to remove such car or locomotive has been given to the conductor, engineer, agent or other person in charge of such car or locomotive or shall permit any timber, wood or other obstruction to remain upon or across any such street, road or highway to the hindrance or inconvenience of travelers or any person passing along or upon such street, road or highway, such person so offending shall forfeit and pay for every such offense a sum not exceeding twenty nor less than five dollars and shall be liable for all damages arising to any highway, to be recovered by an action at the suit of the county in which such offense shall have been committed or any person suing for the same, before any magistrate within the county in which such offense shall have been committed or by indictment in the court of general sessions or suit in the court of common pleas. All fines so accruing under the provisions of this section, when collected, shall be paid over by the magistrate to the county treasurer for the district in which such offense was committed. Every twenty‑four hours such person, after being notified, shall suffer such obstruction to remain, to the hindrance or inconvenience of travelers or any person going along or upon such road or highway, shall be deemed an additional offense against the provisions of this section.

HISTORY: 1962 Code Section 33‑495; 1952 Code Section 33‑495; 1942 Code Section 5829; 1932 Code Section 5829; Civ. C. ‘22 Section 2922; Civ. C. ‘12 Section 1947; Civ. C. ‘02 Section 1375; 1896 (22) 234; 1902 (23) 1007.

CROSS REFERENCES

Applicability of provisions pertaining to use of uniform traffic ticket, see Section 56‑7‑10.

Obstruction of roads by railroad cars and equipment, see Section 58‑17‑4080.

Library References

Highways 153 to 164.

Westlaw Topic No. 200.

C.J.S. Gas Section 128.

C.J.S. Highways Sections 334 to 387.

Attorney General’s Opinions

Discussion of trains obstructing roadways and the procedure for notice. S.C. Op.Atty.Gen. (July 8, 1996) 1996 WL 494720.

NOTES OF DECISIONS

In general 1

Pleadings 3

Railroads 2

1. In general

Complaint, in action for injuries to passenger in automobile which collided with freight train standing on highway at night, held to state cause of action for negligence although also alleging violation of a statutory duty (Code 1932, Sections 5829, 8355). Spiers v. Atlantic Coast Line R. Co. (S.C. 1935) 174 S.C. 508, 178 S.E. 136.

When erection of dam results in overflow of county highways, county is not given a right of action for such damages by this section [formerly Code 1962 Section 33‑495], under which damages are recoverable for violation of the duty to remove an obstruction in a highway on notice to do so. Edgefield County v. Georgia‑Carolina Power Co. (S.C. 1916) 104 S.C. 311, 88 S.E. 801. Highways 160(1)

A county’s cause of action for damages for obstructing a highway, given by the express terms of this section [formerly Code 1962 Section 33‑495], may be combined in one action with its cause of action for damages for injuries to bridges, highways, or other property. Edgefield County v. Georgia‑Carolina Power Co. (S.C. 1916) 104 S.C. 311, 88 S.E. 801. Action 48(2)

Civ.Code 1912, Section 1947 (See Code 1942, Section 5829), does not apply unless the required notice to move the car obstructing the crossing has been given. Settlemeyer v. Southern Ry. Co., Carolina Division (S.C. 1914) 97 S.C. 85, 81 S.E. 465.

2. Railroads

Motorist who ran into box cars obstructing highway did not have to allege in his complaint that the defendant railroad had violated this section [formerly Code 1962 Section 33‑495] and Code 1962 Section 58‑1001 [see now Section 58‑17‑1410], if action was based on common‑law principles of negligence. Myers v. Atlantic Coast Line R. Co. (S.C. 1934) 172 S.C. 236, 173 S.E. 812.

Obstruction of highway by railroad company. This section [formerly Code 1962 Section 33‑495] does not change or affect the rule laid down in Littlejohn v Richmond & D.R. Co. (1897) 49 SC 12, 26 SE 967, holding that a railroad company may be a trespasser in obstructing a public crossing by leaving its train standing across it for an unreasonable length of time. Walker v Southern R. Co. (1907) 77 SC 161, 57 SE 764. Miller v. Atlantic Coast Line R. Co. (S.C. 1926) 140 S.C. 123, 138 S.E. 675, certiorari denied 48 S.Ct. 117, 275 U.S. 556, 72 L.Ed. 424.

3. Pleadings

Complaint stating facts necessary to make out a cause of action for obstructing a highway under the statute, need not refer to the statute nor set out its terms. Smith v. Gilreath (S.C. 1904) 69 S.C. 353, 48 S.E. 262. Highways 160(2)

**SECTION 57‑7‑250.** Obstruction of drainage or emptying water in road by railroads.

 It shall be unlawful for any railroad company to obstruct, by its roadbed or otherwise, the drainage of any public road or highway, or to empty the water from its ditches into any public road or highway, to the injury of such highway. If any railroad company, being warned by the overseer of the proper district by leaving a written notice with any agent or informing any station agent of the railroad company personally, shall refuse or neglect to remedy any such obstruction to the satisfaction of the overseer, it shall forfeit and pay a sum not exceeding fifty nor less than twenty dollars, to be recovered by an action at the suit of the county before any magistrate. And every ten days such railroad company, after being notified, shall neglect or refuse to remedy such offense shall be deemed an additional offense against the provisions of this chapter. Any money so collected shall be paid by the magistrate collecting it to the county treasurer, and the money so paid over shall become a part of the county road fund.

HISTORY: 1962 Code Section 33‑496; 1952 Code Section 33‑496; 1942 Code Section 5831; 1932 Code Section 5831; Civ. C. ‘22 Section 2924; Civ. C. ‘12 Section 1949; 1902 (23) 1008.

CROSS REFERENCES

Regulations of crossings and culverts, generally, see Section 58‑17‑1310.

Library References

Highways 153 to 164.

Westlaw Topic No. 200.

C.J.S. Gas Section 128.

C.J.S. Highways Sections 334 to 387.

**SECTION 57‑7‑260.** Liability of corporations for obstructions by their agents.

 Every railroad company or other corporation, the servant, agent or employee of which shall, in any manner, obstruct any street, public road or highway, shall be liable to pay any fine which may be assessed against such servant, agent or employee for so obstructing such street, public road or highway. Such liability may be enforced by execution against such railroad company or other corporation on the judgment rendered against such servant, agent or employee for so obstructing such street, public road or highway.

HISTORY: 1962 Code Section 33‑497; 1952 Code Section 33‑497; 1942 Code Section 5830; 1932 Code Section 5830; Civ. C. ‘22 Section 2923; Civ. C ‘12 Section 1948; 1902 (23) 1008.

Library References

Highways 156.

Westlaw Topic No. 200.

C.J.S. Gas Section 128.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Automobiles and Other Motor Vehicles Section 225, Negligence.

NOTES OF DECISIONS

In general 1

1. In general

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