

1976 WL 30529 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 24, 1976

\*1 Lt. Ronald Cook  
State Law Enforcement Division  
Post Office Box 21398  
Columbia, SC 29221

Dear Lt. Cook:

You have requested an opinion of this office as to the criminality of masturbation when performed by a woman on a man for hire.

Section 16-409 of the South Carolina Code of Laws provides, among other things, that it shall be unlawful to:

(5) Reside in, enter or remain in any place, structure, building, vehicle, trailer or conveyance for the purpose of lewdness, assignation or prostitution;

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(7) Receive any person for purposes of lewdness, assignation or prostitution into any vehicle, conveyance, trailer, place, structure or building;

(8) Permit any person to remain for the purpose of lewdness, assignation or prostitution in any vehicle, conveyance, trailer, place, structure or building;

The operative word in the above sections for the present purposes is 'lewdness.' It is well settled that this word is a broader term than 'prostitution'; People v. Arcega, 49 Cal. App. 239, 193 P. 263; State v. Morley, 63 NM 267, 317 P2d 317. In recent years, several courts have extended the definition of 'lewdness' to cover masturbation for hire as practiced in purported massage parlors; Hensley v. City of Norfolk, 216 Va. 369, 218 SE2d 735 (1975); City of Chicago v. Geraci, 30 Ill. App. 3d 699, 332 NE2d 487 (1975). The statutes in those cases were substantially identical to the statute quoted above. It is thus the opinion of this office that masturbation for hire is an act of lewdness within Section 16-409.

In addition, it should be pointed out that pursuant to Sections 10-1801, et seq., the solicitor may seek a permanent injunction against any place 'used for the purpose of lewdness, assignation or prostitution' (Section 10-1801) on the ground that such a place constitutes a public nuisance. Under the definition of lewdness set forth above, the operation of a place wherein masturbation for hire is conducted would clearly constitute an enjoynable public nuisance.

Sincerely yours,

Kenneth P. Woodington  
Assistant Attorney General

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