

**OPINION
74-447**

February 11, 1974 (OPINION)

Mr. Walter R. Hjelle
State Highway Commissioner
State Highway Building
Bismarck, North Dakota 58505

Dear Mr. Hjelle:

This is in response to your request for an opinion as to the legality of the State preventing live advertising from being placed on a sign structure which has been blank or painted out for six months or more.

The declaration of policy set forth in Chapter 24-17 of the North Dakota Century Code does determine it to be in the public interest to "reasonably" regulate advertising devices along the highways therein specified and indicates that it is the legislative intention to reasonably regulate though not prohibit outdoor advertising, through zoning principles and standards consistent with the public policy relating to the areas adjacent to the state highway system pursuant to Title 24, U.S.C. Sections 131 and 319.

On such basis, regulations declaring that a sign structure unused for six months or longer is an abandoned sign structure for purposes of maintaining a nonpermitted sign would not be deemed unreasonable within the current structure of the North Dakota law. Further restrictions to the effect that a prohibited advertising display should not be permitted on such unused or abandoned sign structure for purposes of maintaining a non-permitted sign and that all new advertising must comply with State Law as it pertains to new signs would be reasonable and legal.

We are assuming that any regulations adopted will not purport to be retrospective in operation.

We hope the within for foregoing will be sufficient for your purposes.

Sincerely yours,

ALLEN I. OLSON
Attorney General