

1981 WL 158243 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 21, 1981

*1 The Honorable Irene K. Rudnick
Member
House of Representatives
310-D Blatt Building
Columbia, SC 29211

Dear Representative Rudnick:

In a letter to this Office sent on behalf of a constituent, you questioned whether the sale of arts and crafts by individuals at a community festival on a Sunday would be a violation of this State's 'blue laws.'

The South Carolina Supreme Court in the case of [State v. Solomon, 245 S.C. 550, 141 S.E.2d 818 \(1965\)](#) determined that three separate offenses are created by [Section 23-1-40, Code of Laws of South Carolina, 1976](#). They are (1) engaging in worldly work, labor, or business of one's ordinary calling on Sunday; (2) selling or offering to sell, publicly or privately or by telephone, at retail or wholesale to the consumer any goods, wares or merchandise on Sunday; (3) employing others to engage in work, labor, business or selling or offering to sell any goods, wares or merchandise on Sunday. Specifically exempted from the above is 'work of necessity or charity.' Also, [Sections 53-1-50 and 53-1-60, Code of Laws of South Carolina, 1976](#), copies of which are enclosed, provide a list of permitted activities and sales and a list of merchandise which may not be sold on Sunday.

A review of the above indicates that unless the arts and crafts to be offered for sale come within the definition of 'novelties' and 'souvenirs,' items which may pursuant to [Section 53-1-50, supra](#), be sold on Sunday, it appears that the sale of the items referenced in your letter would be prohibited. (I am assuming that the sale is not for charitable purposes.) As to what constitutes a 'novelty' or a 'souvenir,' the Supreme Court in [Solomon](#) stated those terms were . . . terms of common usage in the business world and business people of ordinary intelligence in the position of the defendant would be able to know what exceptions are meant by the terms, either as a matter of ordinary commercial knowledge or upon reasonable investigation. Under such circumstances, there is no necessity to guess at the statute's meaning in order to determine what conduct it makes criminal. [245 S.C. 550 at 571](#).

Inasmuch as more precise definition cannot be given, I can only suggest that discretion be used in determining whether the arts and crafts intended for sale in your particular circumstances would come within the definition of a novelty or a souvenir.

With best wishes.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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