

1979 WL 42843 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 6, 1979

*1 The Honorable H. Parker Evatt
Second Vice Chairman
Medical, Military, Public and Municipal Affairs Committee
House of Representatives
P.O. Box 11867
Columbia, South Carolina 29211

Dear Representative Evatt:

You have asked the question whether the proposed state False Claims Act is permissible under the rules governing civil proceedings in South Carolina.

Initially, a review of Title 15 of the Code of Laws of South Carolina (1976 as amended) reveals no provision which would pose any difficulty to the proposed legislation.

Additionally, it appears that the provision assessing a \$2,000 liability for violation of the Act Represents a civil penalty. See: 36 Am. Jur.2d Forfeitures and Penalties, § 2. Similar statutes, assessing civil penalties, when attacked on various constitutional grounds, have been consistently upheld. [Missouri Pacific Railroad Co. v. Humes](#), 115 U.S. 512 (1885); 36 Am. Jur.2d, Forfeitures and Penalties, § 53.

As you have noted, a federal statute employs the identical language of the proposed state legislation. See: 31 U.S. Code Ann., § 231. The United States Supreme Court when presented with the opportunity to review this federal statute has consistently upheld it. [U.S. ex rel. Marcus v. Hess](#), 317 U.S. 537 (1943).

Accordingly, this general review reveals no difficulty with the proposed legislation. However, if there is a particular statutory or constitutional provision which is of concern to you, please feel free to call it to our attention and we will be happy to conduct further research.

With kindest regards, I remain

Very truly yours,

Robert D. Cook
Staff Attorney

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