

1972 WL 25490 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 6, 1972

\*1 Honorable Rudolph Mitchell  
First Vice Chairman  
House Agriculture Committee  
House of Representatives  
Columbia, South Carolina

Dear Mr. Mitchell:

You have inquired as to whether a proposal would be constitutional, which proposal would provide that milk distributors in South Carolina be required to purchase their supplies from South Carolina producers and that no milk distributor be permitted to purchase milk outside the State until all sources of supply in South Carolina were exhausted.

In my opinion, this type of legislative enactment would be unconstitutional. The precise issue appears to have been faced in [Polar Ice Cream Company v. Andrews](#), 11 L.Ed.2d 389, the syllabus to which states:

‘A state regulator scheme which reserves to its local milk producers a substantial share of the state market by requiring local milk distributors to take at fixed prices all the milk offered by designated milk producers, and to accept out-of-state milk only if the local producers cannot fill the distributors' needs, is invalid as a burden on interstate commerce.’

It is my understanding that some members have understood me to say orally that such a scheme would be acceptable, but this is undoubtedly attributable to a misunderstanding, either by myself or the persons with whom I was speaking, and I regret if this has occurred. The Polar case clearly demonstrates that a proposal such as is referred to herein would not stand in the courts.

Very truly yours,

Daniel R. McLeod  
Attorney General

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