

1972 WL 25539 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 27, 1972

***1 Re: S-356**

The Honorable Thomas F. Hartnett
Member
House of Representatives
Education and Public Works Committee
The State House
Columbia, South Carolina

Dear Mr. Hartnett:

You have requested the opinion of this Office as to the validity of Section 5(2)(e) of S-356, now pending for consideration before the Education and Public Works Committee. This section of the bill substantially provides that it shall be unlawful: “to offer to sell or to sell any new motor vehicle to any motor vehicle dealer at a lower actual price therefor than the actual price offered to any other motor vehicle dealer for the same model vehicle similarly equipped—.”

In my opinion, this section of the bill is most probably unconstitutional. I reach this conclusion in consideration of the authorities referred to in previous letters directed to you concerning other provisions of the bill, the letters being dated April 12 and April 21, 1972, respectively. To these cases I would add the case of [State v. Standard Oil Company of New Jersey, 195 S.C. 267, 10 S.E.2d 778](#). These cases reflect the view of the Supreme Court of South Carolina that price-fixing in a business which is not “affected with a public interest” will not stand. The synthesis of the various cases concerning regulation of price contract arrangements compels the conclusion that the court would most probably reject the provision referred to herein.

Very truly yours,

Daniel R. McLeod
Attorney General

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