



The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLES MOLONY CONDON  
 ATTORNEY GENERAL

October 4, 1995

The Honorable John Milton Knotts, Jr.  
 Member, House of Representatives  
 500 West Dunbar Road  
 West Columbia, South Carolina 29169

Re: Informal Opinion

Dear Representative Knotts:

You have asked our advice "regarding the blue laws status of a business which is divided by two counties, with one county recognizing state blue laws while the other county has relaxed blue laws." Specifically, you wish to know what happens where a business is divided by Lexington and Richland Counties and what that business does about times for opening their doors and selling affected products on Sundays.

South Carolina's Blue Laws are codified at S.C. Code Ann. Sec. 53-1-5 et seq. In essence, the Blue Laws forbid three categories of acts on Sundays: (1) engaging in worldly work, labor or business of one's ordinary calling; (2) selling or offering to sell, publicly or privately or by telephone, at retail or wholesale, goods or merchandise; (3) employing others to engage in work, labor business or selling or offering to sell goods or merchandise. Section 53-1-40; State v. Solomon, 245 S.C. 550, 141 S.E.2d 818, 14 A.L.R.3d 1277, app. dismd. 382 U.S. 204, 86 S.Ct. 396, 15 L.Ed.2d 270 ( ). Pursuant to Section 53-1-5, however, Blue Laws "do not apply after the hour of 1:30 p.m. on Sunday." The 1:30 p.m. exemption is applicable to the entire State of South Carolina.

Other exemptions are also relevant as well. Section 53-1-50 exempts altogether a number of items from the Blue Laws prohibition. Moreover, Section 53-1-150(B) exempts any county area, defined by Section 6-4-5(1), which collects more than \$900,000 in one fiscal year in revenues from the accommodations tax provided for in Section 12-36-2630(3) and imposed in § 12-36-920(A) of the Code.

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R-103 of 1995 provides the most recent major exemption to the Blue Laws. Section 53-1-160, which is encompassed within R-103, provides in pertinent part:

(A) In addition to other exemptions provided by statute, the county governing body may by ordinance suspend the application of the Sunday work prohibitions provided in Chapter 1 of Title 53 in a county which does not qualify for the exemption provided in Section 53-1-150 ....

(B) In addition to other exceptions provided by statute, the Sunday work prohibitions provided in Chapter 1 of Title 53 may only be continued:

- (1) in a county which does not qualify for the exemption provided in Section 53-1-150 within ninety days before the 1996 general election, or
- (2) in a county in which the county governing body has not suspended application of the Sunday work prohibitions by ordinance as provided in subsection (A) within ninety days before the 1996 general election, if a majority of the qualified electors of that county voting in a referendum at the time of the 1996 general election vote in favor of the continued prohibition on Sunday work.

(C) The county election commission shall place the question in Subsection (G) on the ballot in November, 1996 in a county:

- (1) which does not qualify for the exemption provided in Section 53-1-150 within ninety days before the 1996 general election; or
- (2) in which the county governing body has not suspended application of the Sunday work prohibitions by ordinance as provided in subsection (A) within ninety days before the 1996 general election. (emphasis added).

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Pursuant to Subsection (A) above, the county governing body of Richland County has, by ordinance, suspended the Sunday work prohibition. Lexington County has not suspended the prohibition. Thus, in Richland County, at present, the Sunday work prohibition is altogether removed, while in Lexington it is removed only after 1:30 p.m. Prior to 1:30 p.m., however, in Lexington, the Sunday work prohibition is controlling, except where one of the exceptions contained in Section 53-1-50 is applicable.

We begin our analysis with the following fundamental principle of law:

[i]t is a well-settled rule, however, that unless otherwise provided by the organic law, or in some instances by specific legislation enacted by the State, municipal ordinances have no extra-territorial force or operation, and are effective only within the boundaries of the municipality.

56 Am.Jur.2d, Municipal Corporations, § 407. Our Supreme Court in Childs v. Columbia, 87 S.C. 566, 570, 70 S.E. 296 (1910) reiterated this fundamental principle when it said:

[a]ll powers and privileges conferred by the Constitution and statutes on municipal corporations must be held to be limited in their exercise to the territory embraced in the municipal boundaries and for the benefit of the inhabitants of the municipality, unless the Constitution or statute expressly provides that such powers and privileges may be exercised beyond the corporate boundaries or for the benefit of nonresidents.

This same reasoning applies to counties as well. In other words, unless authorized by statute, a county has no authority to legislate beyond its boundaries.

Here, neither Chapter 1 of Title 53, nor recent amendments thereto authorize a county governing body to act beyond the boundaries of the county. Thus, clearly the recent action by Richland County Council in suspending the Blue Laws, can affect only territory within the boundaries of that County. Such action would have no impact whatsoever on territory within the boundaries of Lexington County.

As noted above, prior to 1:30 p.m., Lexington County is governed by the Blue Laws and Section 53-1-40 is inapplicable only where the specific exceptions specified in Chapter 1 of Title 53 apply. See particularly, items specified in Section 53-1-50. Moreover, Section 53-1-60 expressly provides that the sale or offer to sell of certain items is prohibited and that

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[n]o inference shall arise from the foregoing enumeration that either the sale or the offering for sale on Sunday of items or articles not mentioned is permitted.

Assuming the facts of your situation to be correct, any business whose premises are physically located in two separate counties, one of which has suspended the Blue Laws prior to 1:30 p.m. and the other having not, such would be akin to the situation where a business may open on Sunday, but is only able to sell certain permitted items. In an opinion dated August 2, 1984, we offered the following guidance with respect to such situations:

[i]n State v. Karmil Merchandising Corporation, 158 Me. 450, 186 A.2d 352 (1962), the Supreme Court of Maine held that where a statute excepts the sale of specified items from the general prohibition against selling on Sunday, a department store may open on Sunday such departments or sections where the excepted items are located and sell those items but not open other departments and sell items prohibited for sale on Sunday. See also: Fichtenberg v. City of Atlanta, 126 Ga. 62, 54 S.E. 933 (1906). Similarly, this Office has indicated in prior opinion[s] that while the 'BLUE LAWS' permit an automobile PARTS STORE to sell and install automotive repair parts or accessories for immediate use in emergency situations, the general sale of automotive parts on Sunday is prohibited. See: Ops. Atty. Gen. dated April 10, 1979; July 15, 1980; September 26, 1983. Therefore, while certain businesses or enterprises may 'operate' on Sundays, it remains clear that the unlimited operation of such are not permitted by the 'BLUE LAWS'.

In summary, I am aware of no exception to the Blue Laws for a business or a mall divided by a county line, where one county has suspended the Blue Laws altogether and the other has not. The law does not exempt the entire business or mall from operation of the Blue Laws simply because a portion thereof is now exempt.

Accordingly, regardless of whether the county line divides a particular store specifically or, more generally separates the mall itself, only those items expressly permitted by law could either be sold or offered for sale in stores or portions of stores on the Lexington County side prior to 1:30 p.m. On the Richland County side, on the other hand, the Blue Laws are suspended altogether. Obviously, nothing mandates or requires that any store or portion of a store on the Richland County side open prior to 1:30 and

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this may be an option for any store divided by the county line, because such store will have to make the practical decision whether it can, without limitation, sell or offer for sale items in part of a store and sell or offer for sale only permitted items in the other part. Moreover, stores in the mall, located solely in Lexington County, would have to insure, if opening prior to 1:30 p.m., that they were only selling or offering to sell those items permitted by law.

This letter is an informal opinion only. It has been written by a designated Assistant Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Very truly yours,



Robert D. Cook  
Assistant Deputy Attorney General

RDC/an