

## The State of South Carolina



## Office of the Attorney General

T. TRAVIS MEDLOCK  
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING  
POST OFFICE BOX 11549  
COLUMBIA, S.C. 29211  
TELEPHONE: 803-734-3970  
FACSIMILE: 803-253-6283

November 21, 1994

The Honorable Bill Coffey  
Sheriff of Spartanburg County  
Post Office Box 771  
Spartanburg, South Carolina 29304

The Honorable David G. Dennis  
Chairman, Spartanburg County Council  
Post Office Box 5666  
Spartanburg, South Carolina 29304

Gentlemen:

By your respective letters you have both requested the opinion of this Office as to the provisions of S.C. Code Ann. § 53-1-150(B) (1993 Cum. Supp.), also referred to as the "Blue Laws." You have advised that Spartanburg County does not collect \$900,000.00 annually in accommodations taxes, though Spartanburg County has collected \$900,000.00 on a cumulative basis. Your specific question is whether the \$900,000.00 is to be accumulated annually or on a cumulative basis, to determine at what point the exemption to the "Blue Laws" applies to Spartanburg County.

Chapter 1 of Title 53, South Carolina Code of Laws, establishes the work and activities which may be conducted on Sundays, items which may not be sold, and the like, with certain exceptions specified therein. An exemption from the application of these laws is provided for certain counties by § 53-1-150, which provides in relevant part:

(A) The General Assembly finds that certain areas of the State would benefit greatly from a complete exemption from Chapter 1, Title 53, of the 1976 Code. The benefit would be a result of an expanded tax base thereby reducing the burden placed on property owners through the property

tax. Allowing the operation of establishments on Sunday in these areas would also reduce the property tax burden through additional accommodation tax revenue which allows these areas to provide necessary governmental service from these revenues.

(B) The provisions of Chapter 1, Title 53, of the 1976 Code do not apply to any county area, as defined in § 12-35-730 of the 1976 Code,<sup>1</sup> which collects more than nine hundred thousand dollars in revenues from the tax imposed in § 12-35-710 of the 1976 Code.<sup>2</sup>

....

### Statutory Construction

The primary objective of both the courts and this Office in construing a statute is to determine and effectuate legislative intent if it is at all possible to do so. Bankers Trust of South Carolina v. Bruce, 275 S.C. 35, 267 S.E.2d 424 (1980). A statutory provision should be given a reasonable and practical construction consistent with the purpose and policy expressed therein. Hay v. South Carolina Tax Commission, 273 S.C. 269, 255 S.E.2d 837 (1979). An ambiguity in a statute will be resolved in favor of a just, equitable, and beneficial operation of the law. Crescent Mfg. Co. v. Tax Comm'n, 129 S.C. 480, 124 S.E.2d 761 (1924).

### Discussion

It is clear from § 53-1-150(A) that the General Assembly has chosen to benefit those county areas in this State which have generated more than nine hundred thousand dollars (\$900,000.00) in accommodations tax revenues, the legislature having recognized that such county areas will have an expanded tax base and thus reducing the tax burden on property owners. The language of § 53-1-150(B) seems to be ambiguous, though, in

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<sup>1</sup> This statute is now codified at § 6-4-20 (1993 Cum. Supp.).

<sup>2</sup> This statute is now codified at § 12-36-920 (1993 Cum. Supp.).

The Honorable Bill Coffey  
The Honorable David G. Dennis  
Page 3  
November 21, 1994

that the time period during which the \$900,000.00 is to be calculated is not specified. Thus, § 53-1-150(B) is susceptible of two equally plausible interpretations: calculation on an annual basis or calculation on a cumulative basis.

The first interpretation would be to calculate the \$900,000.00 as required to be collected annually. Section 6-4-20 references certain actions which must be taken at the end of the fiscal year and calculations to be made on a fiscal year basis, to compare to previous fiscal years' calculations, for example. A sensible interpretation of § 53-1-150(B), taking into account the requirements of § 6-4-20 referred to in § 53-1-150(B), would suggest that the \$900,000.00 be calculated annually, just as the other calculations are made. Such an interpretation would comport with reports of circumstances existing at the time § 53-1-150 was enacted, as well. In The State, on May 2, 1985, page 5A, contemporaneous with adoption of the act which in part became § 53-1-150, it was reported: "The proposed exemption would let counties that take in more than \$900,000 a year in lodging taxes operate all day Sunday with no sales restrictions... The exemption is expected to apply to Horry, Charleston and Beaufort counties." Similarly, the following appeared in The State on May 3, 1985, on page 1A: "Counties taking in more than \$900,000 in lodging taxes -- expected to be Horry, Charleston and Beaufort at the outset - - will be completely exempted from blue laws." Thus, an interpretation that \$900,000.00 be calculated annually appears to have much support.

The other interpretation would permit the exemption in § 53-1-150(B) to apply at the time when the county area reaches a cumulative total of \$900,000.00. Section 53-1-150(B) does not contain any time limits; however, the successor statute to § 12-35-730, now § 6-4-20, contains references to activities or requirements conducted annually, on a fiscal year basis. At best, the language of § 53-1-150(B) is ambiguous, and legislative clarification would be helpful to resolve the ambiguity.

Based on the foregoing, and recognizing that the language of § 53-1-150(B) is ambiguous and its interpretation not free from doubt, it is the opinion of this Office that a county area must collect more than \$900,000.00 in accommodations taxes on an annual basis for the exemption of § 53-1-150(B) to apply in that county area. Because Spartanburg County does not collect the required amount on an annual basis, it is our opinion that Spartanburg County is not yet eligible for the exemption of § 53-1-150(B). In so concluding, we concur with the opinion of Edwin C. Haskell, III, Assistant County Attorney for Spartanburg County, dated September 30, 1994.

The Honorable Bill Coffey  
The Honorable David G. Dennis  
Page 4  
November 21, 1994

With kindest regards, I am

Sincerely,

*Patricia D. Petway*

Patricia D. Petway  
Assistant Attorney General

PDP:kws

REVIEWED AND APPROVED BY:

*Robert D. Cook*

Robert D. Cook  
Executive Assistant for Opinions