



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

August 18, 1995

Lieutenant Keith Lewis
Fairfield County Multijurisdictional
Drug Task Force
P. O. Drawer 1115
Winnsboro, South Carolina 29180

Re: Informal Opinion

Dear Lieutenant Lewis:

You have asked whether S.C. Code Ann. § 44-53-370(d) (3) (i) and (ii) has been repealed by Section 36 of Act No. 497 of 1994. It is my understanding that, by virtue of the 1994 Act, the General Assembly repealed this provision.

A Memorandum from the South Carolina Court Administration, dated November 18, 1994, describes the purpose of Act No. 497, Section 36:

[d]uring the recent legislative session [1994], the General Assembly enacted Section 36 of the Permanent Provisions to the 1994-95 Appropriations Act which completely changes the method of calculating the assessments to be added to fines as well as the way the revenue generated by the courts is distributed. The provisions of Section 36 are effective January 1, 1995 and apply in all cases disposed of on or after January 1.

Section 36 specifically amended § 44-53-370(d) (3), which sets forth the penalties for the possession of specified amounts of certain controlled substances including cocaine, marijuana and LSD, and had previously provided the specific manner in which fines are

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to be distributed.¹ The specific amendments to § 44-53-370(d) (3) are set forth in Subsections M and N of Act No. 497.

While the amendments are cumbersome and could easily have been worded with greater precision, the effect is clear. In virtually every version of the Bill as it wound its way through the legislative process, subsections (d) (3) (i) and (ii) were struck through as deleted. See e.g., Senate Finance Committee version; H.4659 of 1994. Additionally, Subsection (A) of Section 36 of Act No. 497 specifies certain exceptions to the new procedure for distribution, but does not enumerate § 44-53-370(d) (3) (i) and (ii).

Finally, I am advised that the insertion of Subsections (d) (3) (i) and (ii) in the 1994 Code Supplement, which, of course, is unofficial and yields to the text of the Act itself, was probably the result of a printer's error. Apparently, the Legislature considered subsections (i) and (ii) a part of the "first paragraph" of (d) (3), which was amended by Subsection M of Section 36. That such is the case is confirmed by the fact that subsections (i) and (ii) were the only parts of the amended version of the "first paragraph" of § 44-53-470(d) (3) as contained in Subsection M that changed in any way. The Legislature is not deemed to do a futile thing. Thus, necessarily those portions of the "first paragraph" of (d) (3) which the Legislature meant to amend were subsections (i) and (ii), by striking those specific provisions.

Accordingly, it is evident that the General Assembly repealed § 44-53-470(d) (3) (i) and (ii) with the enactment of Act No. 497, Section 36 of 1994.

¹ Section 44-53-370(d) (3) (i) and (ii) provides that fines for the offenses enunciated therein shall be distributed as follows:

(i) For a first offense, the first one hundred dollars must be distributed pursuant to the provisions of Section 44-53-580 and all monies in excess of that amount must be distributed to the unit of government whose law enforcement officers initiated the investigation which resulted in the conviction.

(ii) For a second or subsequent offense, the first two hundred dollars must be distributed pursuant to the provision of Section 44-53-580 and all monies in excess of that amount must be distributed to the unit of government whose law enforcement officers initiated the investigation which resulted in the conviction.

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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