

The State of South Carolina



Office of the Attorney General

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June 13, 1985

Mr. W. Brock Conrad, Jr.
Chief, Game Management
South Carolina Wildlife & Marine
Resources Department
Post Office Box 167
Columbia, South Carolina 29202

Dear Mr. Conrad:

In a letter to this Office you questioned whether the State Wildlife and Marine Resources Department has the authority to prohibit the use of airboats in a particular area during a certain time of the year, such as duck season.

Based upon my review of present statutory provisions, I am unaware of any statute which particularly addresses the question raised by you. Moreover, my research has not revealed any former opinions of this Office relevant to your question.

While apparently there are no statutes particularly addressing the use of airboats, general statutory authority does presently authorize the Wildlife and Marine Resources Boating Division "... to make special rules and regulations with reference to the operation of vessels on waters within the territorial limits of this State." Section 50-21-30(3) of the Code. Also, Section 50-21-710 of the Code authorizes the Boating Division to regulate navigation on waters within this State. Such statute apparently, however, is directed more toward safe boating practices rather than regulating the operation of boats used for hunting.

I have also reviewed the present regulations of the Wildlife and Marine Resources Department as to the question raised by you. Certain regulations do exist which restrict watercraft in certain areas. See: Regs. 123.10 et seq. It appears, however, that such regulations were promulgated chiefly to improve safety on certain waters inasmuch as typically, these regulations prohibit the operation of watercraft in a manner which would

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produce a wake in addition to generally restricting the use of watercraft on certain portions of the waterways. Based upon my review, these regulations apparently do not relate to the use of watercraft, and especially airboats, in association with hunting.

The only regulation I have found which specifically references the use of airboats is R.123-80 which deals with waterfowl hunting on the Hatchery Game Management Area in Berkeley County. The regulation states in part:

(10) No airboats are allowed in the Hatchery Game Management Area between the first day of November in each year and the twentieth day of January in the following year, inclusive.

Referencing such regulation, it is apparent that regulations have been promulgated in the past prohibiting the use of airboats at certain times. Arguably, such may have been promulgated pursuant to the authority of Section 50-21-30(3) referenced above.

In your letter you indicated that consideration has been given to introducing legislation specifically dealing with restricting the use of airboats. Such would probably be preferable to promulgating any regulations dealing with airboats.

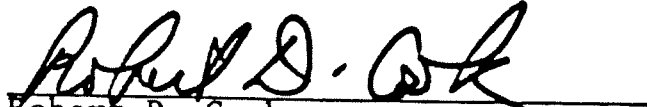
If there is anything further, please advise.

Sincerely,


Charles H. Richardson
Assistant Attorney General

CHR:djg

REVIEWED AND APPROVED BY:


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