

1984 WL 249945 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 26, 1984

*1 The Honorable Frank H. McGill
Member
South Carolina Senate
Post Office Box 759
Kingstree, South Carolina 29556

Dear Senator McGill:

In a letter to this office you requested an opinion as to whether the Department of Health and Environmental Control acted legally in banning smoking in the public areas of their building.

In considering your question, I have talked with Mr. Benjamin Lee, Deputy Commissioner for Administration at DHEC, and Mr. Walton McLeod, General Counsel for DHEC. I have also reviewed the copy of the letter from DHEC Commissioner Robert Jackson to you which was forwarded to this office. Additionally, a copy of the 'No Smoking Policy' instituted by DHEC was forwarded to me.

It appears that the DHEC 'No Smoking Policy' is in fact just that—a policy to discourage smoking in DHEC facilities. No attempts have been made to enact such a policy as an enforceable regulation. Additionally, there appear to be no specific penalties for the violation of such a policy. It appears that the only method of enforcing such policy is the utilization of supervisors in encouraging compliance. However, such does not appear to be improper but instead may be considered within the purview of a state agency's authority, so long as it is a job-related function.

Referencing the above, there appears at this time to be no basis for determining that DHEC acted improperly in implementing their 'no smoking' policy. If any additional facts which you consider as having a bearing on the situation would come to your attention, this office would be glad to consider the matter further.

If there is anything further, do not hesitate to contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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