

1983 S.C. Op. Atty. Gen. 145 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-88, 1983 WL 142757

Office of the Attorney General

State of South Carolina

Opinion No. 83-88

November 14, 1983

***1 RE: Opinion Request**

Ted B. Wyndham, Esquire
City Recorder
Greenwood Savings & Loan Building
Greenwood, SC 29646

Dear Mr. Wyndham:

In a letter to this Office you questioned whether an arrest warrant may be issued for a fraudulent check given in payment of outstanding utility bills when it is understood that unless payment is made, service will be discontinued. Enclosed please find a copy of a previous opinion of this Office discussing such question.

In your second question, you referenced [Section 16-13-420, Code of Laws of South Carolina](#), 1976, which provides that whoever fails to timely return certain rented objects as specified shall be guilty of larceny. The statute specifies the following rented objects: any motor vehicle, trailer, appliance, equipment or tool. Referencing such, you questioned whether televisions and furniture are included in the above listing of rented objects covered by such statute.

I am unaware of any court decision in this State construing the referenced list of objects specified above. Generally, 'statutes which are criminal or penal in nature are strictly construed against the state.' [Lewis v. Gaddy](#), 254 S.C. 66 at 70, 173 S.E.2d 376 (1970). Upon reviewing the list of rented objects included within [Section 16-13-420](#), *supra*, the only category conceivably broad enough to possibly cover televisions and furniture would be 'equipment' and/or 'appliance'. The term 'appliance' '... has been defined or employed as meaning a thing or anything applied or used as a means to an end, either independently or subordinately; an instrumental means, aid, appurtenance, appendage, contrivance, or device ... the term has been defined or employed generally as meaning a mechanical thing, apparatus or device ... the term has been employed to embrace various instrumentalities and agencies ... any household or office utensil, apparatus, instrument, or machine that utilizes a power supply.' 6 C.J.S., [Appliance](#), pp. 97-98 (1975).

Included within the various definition of the term 'equipment' are the following:

'... anything used in equipping ... the outfit, that is, tools, machinery, implements, appliances, etc., necessary to enable one to do the work involved ... the word may embrace all the appliances and furnishings necessary for, or usual in, the operation of an establishment or institution ... While some authorities, in defining 'equipment' restrict the import of the term to furniture, furnishings, and portable property, others give it a broader meaning, extending the term to include such articles or improvements as, when installed, become part of the building ... but the term is usually applied to movable and not to immovable property ...' 30 C.J.S., [Equipment](#), pp. 754-755 (1965).

Based upon the referenced definition of 'appliance,' I would advise that a court would probably interpret that word to include television sets. On the other hand, it would appear that, in light of the above definitions and particularly the rule of law strictly construing criminal statutes against the State, furniture would have to be included in [Section 16-13-420](#), if at all, within the term 'equipment.'

*2 Whether the General Assembly indeed intended in all cases that furniture be encompassed within the term ‘equipment’ is not clear. On the one hand, as noted above, the plain and ordinary meaning of ‘equipment’ is generally understood to include furniture. Courts typically give words in a statute their ordinary meaning, [Worthington v. Belcher](#), 274 S.C. 366, 264 S.E.2d 148 (1980), even where a criminal statute is involved. [State v. Shanks](#), (Ind.), 99 N.E. 481, 482 (1912). On the other hand, it should be remembered that the word ‘equipment’ is an extremely flexible term, 30 C.J.S., Equipment, [supra](#), and its meaning depends upon the particular circumstances and context in which it is used.¹

Despite the rule of strict construction of criminal statutes, we would advise that a court would likely conclude in many circumstances that furniture constitutes ‘equipment’ for purposes of [Section 16–13–420](#). We would caution, however, that depending upon the type of furniture in question, a court might reasonably conclude that such furniture would not commonly be considered equipment and apply the rule of strict construction. In short, the applicability of the statute would probably depend upon all the surrounding circumstances. Clarifying legislation might, therefore, be advisable.

Sincerely,

Charles H. Richardson
Assistant Attorney General

Footnotes

¹ Also of note are the rented items enumerated in [Section 16–13–420](#), for which the failure to return constitutes the crime: any vehicle, trailer, appliance, equipment or tool. This listing appears to comprise items which are commonly rented; it is not at all clear that all types of furniture fall within the category of items commonly rented.

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