

1983 WL 181698 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 27, 1983

***1 Re: Legality of Automobile Racing, Musical Concerts and Bingo on Sunday**

Sheriff Joe Wallace
Cherokee County Sheriff's Department
125 Baker Boulevard
Gaffney, South Carolina 29340

Dear Sheriff Wallace:

Your letter inquiring as to the legality of automobile races, musical concerts and bingo games on Sunday has been referred to me for a response. I have set out separately below the opinion of this Office as to each activity about which you inquired.

A. Automobile Racing on Sunday

Section 53-1-10, as amended by Act No. 121, 1983, provides as follows:

It shall be unlawful to operate for professional purposes athletic events, public exhibitions, historic or musical entertainment, or concerts unless a permit shall first be obtained from the town or city council, if the activity is in an incorporated town or city, or from the governing body of the county if the activity takes place outside of an incorporated town or city by either the sponsor of the athletic or entertainment event or exhibition or the individual participant.

In [Bishop v. Hanna, 218 SC 474, 63 SE2d 308 \(1951\)](#), our Supreme Court held that a stock car race which was operated for commercial gain constituted a "public sport" and was therefore prohibited on Sunday by the operation of Section 1733, CODE OF LAWS OF SOUTH CAROLINA, 1942.¹ It is the opinion of this Office that stock car races conducted for gain and open to the public constitute professional athletic events as that term is used in Section 53-1-10. Under Section 53-1-10, as amended, it is unlawful to conduct an automobile race unless a permit shall first be obtained from the governing body where the race is to be held.

There are two exceptions to the provisions of Section 53-1-10, as amended. First, Section 53-1-10 does not apply to automobile races which are scheduled to be 250 miles or more in length. [Section 53-1-15, CODE](#), as amended by act No. 28, 1983. Second, Section 53-1-20, provides exemption from automobile races conducted on college or university campuses. Section 53-1-20 provides:

Notwithstanding any provision of law to the contrary, college and university campuses shall be exempt from the provisions of Section 53-1-30.

B. Musical Concerts on Sunday

Musical concerts are permitted on Sunday provided the requirements of Section 53-1-10 are met. Briefly restated, the section requires that a permit be obtained from the governing body where the concert is scheduled. Section 53-1-10, as amended by Act No. 121, 1983. There is a general exemption to the requirement of Section 53-1-10 if the musical concert is scheduled to take place on a college or university campus. See, Section 53-1-20, above.

C. Bingo Games On Sunday

The operation of bingo parlors on Sunday is prohibited under [Section 53-1-40, CODE](#), which provides as follows:

On the first day of the week, commonly called Sunday, it shall be unlawful for any person to engage in worldly work, labor, business of his ordinary calling or the selling or offering to sell publicly or privately or by telephone, at retail or at wholesale to the consumer any goods, wares or merchandise or to employ others to engage in work, labor, business or selling or offering to sell any goods, wares or merchandise, excepting work of necessity or charity. Provided, that in Charleston County the foregoing shall not apply to any person who conscientiously believes, because of his religion, that the seventh day of the week ought to be observed as the Sabbath and who actually refrains from secular business or labor on that day.

*2 The fact that the bingo games may be conducted for charitable, religious, or fraternal purposes² is not controlling. In an analogous situation, our Supreme Court has held that the focus is not upon the ultimate disposition of the proceeds, but rather upon the nature of the work performed. [Oliverous v. Henderson, 116 SC 77, 106 SE 855 \(1920\)](#).

Additionally, at bingo parlors open to the public, the sale of bingo cards on Sunday constitutes violation of Section 53-1-50, as amended, 1983. That section specifies which items may be sold on Sunday, and bingo cards are not listed as an item which may be sold.

In view of the cited authority, it is the opinion of this Office that the sale or offer for sale of bingo cards on Sunday constitutes violation of Section 53-1-50, as amended, 1983. For informational purposes, this Office has successfully brought several lawsuits in which the Circuit Courts have issued injunctions which prohibit Sunday bingo games.

I trust this letter answers your questions. I have enclosed for your convenience a copy of the newly revised Blue Laws. I direct your attention to the fact that the new law included a provision which repealed Article 1, Chapter 3, of Title 52 of the 1976 CODE.³

If I can be of further assistance or if you have any questions, please feel free to contact me.

Kind regards.

Very truly yours,

William K. Moore
Assistant Attorney General

Footnotes

- 1 Section 1733 of the 1942 CODE is the antecedent to [Section 53-1-10, 1976 CODE](#) which was amended this year (1983). and employed the term “public sport” in place of the present term “professional athletic events”.
- 2 [South Carolina Constitution, Article XVII, Section 7](#), as amended; [Section 52-17-10, et seq., CODE](#).
- 3 Sections 52-3-10 through 52-3-30.

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