

1983 WL 197510 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 7, 1983

\*1 The Honorable J. P. Strom  
Chief  
South Carolina State Law Enforcement Division  
Post Office Box 21398  
Columbia, SC 29221

Dear Chief Strom:

You have inquired whether or not the State Law Enforcement Division ("SLED") may accept the transfer of a sum of money, reportedly constituting the product of illegal drug trafficking, without invoking the forfeiture laws contained in Title 44, Chapter 53, Article 3 of the Code of Laws of South Carolina ("Narcotics and Controlled Substances"). As we understand it, the money is now in possession of an individual who will be prosecuted in United States District Court for violation of federal laws.

[Section 44-53-520\(a\)\(5\) of the Code of Laws of South Carolina](#) (1976 amended) provides in part as follows:

(a) The following are subject to forfeiture:

. . . (5) All monies used by law enforcement officers or agents, in the line of duty, to purchase controlled substance during a criminal investigation and all monies seized at the time of arrest involving violation of this article. . . (emphasis added).

As we understand the circumstances, no arrest involving a violation of this State's drug laws has occurred. Your question, moreover, does not indicate that there has been a seizure by a South Carolina law enforcement officer or agent of money involved in a violation of the drug laws of this State. We are advised by you, however, that the money in question does constitute the product of illegal drug trafficking. Any money transferred to SLED under those circumstances, therefore, would not appear to invoke the forfeiture provision in [§44-53-520\(a\)\(5\)](#). It would also appear that such a transfer would not constitute a "forfeiture [ ] collected by any court or agency resulting from a violation of any provision of" the South Carolina drug laws. §44-53-580.

Instead, such a transfer would appear to be more closely akin to a donation or contribution from a source "other than the Federal Government" as those terms are used in Section 133 of Act No. 466 of 1982 [62 STAT. Act No. 466 at 3283 (1982)], which provides in part:

[D]onations or contributions from sources other than the Federal Government, for use by any state agency, shall be deposited in the State Treasury, but in special accounts, and shall be withdrawn from the treasury as needed to fulfill the purposes and conditions of the said donations or contributions, if specified, and, if not specified, as may be directed by the proper authorities of the department.

Id. Based upon the facts and circumstances presented, we would conclude then, that §133 governs the disposition and use of the money in question.

Therefore, we would advise that SLED could receive the money under the circumstances outlined above as a donation or contribution from a source "other than the Federal Government"; however, the use of such money would be subject to §133.

Sincerely yours,

\*2 James M. Holly  
Assistant Attorney General

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