

1983 S.C. Op. Atty. Gen. 55 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-36, 1983 WL 142707

Office of the Attorney General

State of South Carolina

Opinion No. 83-36

July 11, 1983

*1 The Honorable Rufus L. Edmisten
Attorney General
State of North Carolina
Department of Justice
Raleigh, North Carolina 27602

Dear Rufus:

Thank you for your letter dated June 30, 1983, concerning a recent amendment to the South Carolina Hazardous Waste Management Act (the Act). Specifically, you asked the following question:

Would the prohibition set out in Section 4(d) of South Carolina's Act 436 be triggered immediately upon ratification by North Carolina of statutory prohibitions on landfilling certain hazardous waste, even though there is no landfill in North Carolina, or would the South Carolina prohibition be triggered when there is an operational landfill facility in North Carolina to which the prohibitions would be applied?

Section 4(d) of the Act, in pertinent part, states:

No person who owns or operates a treatment, storage or disposal facility shall accept a hazardous waste which is generated in another state and which is banned or prohibited in any manner by any statute, regulation or administrative decision of that state . . .

That statute on its face appears to turn upon whether or not there is a ban or prohibition in another state rather than whether there is an appropriate landfill in existence in the generating state. Therefore, it appears to be clear, in my view, that the passage of a prohibition or ban would trigger the operation of Section 4(d), even though there is no such landfill currently in North Carolina.

I trust the preceding discussion adequately answers the specific question you have asked, and for purposes of this opinion it is the only question we address. If, however, any further explanation or assistance is required, of course, please do not hesitate to contact me.

With best personal regards, I am,
Very truly yours,

T. Travis Medlock
Attorney General

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