

1982 WL 189147 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 21, 1982

\*1 H. Lee Smith

Staff Attorney

South Carolina Court Administration

Post Office Box 11788

Columbia, South Carolina 29211

Dear Lee:

In a letter to this office, you indicated a question has arisen concerning the division of revenue generated in the General Sessions Courts as directed by a memorandum issued by your office in October, 1981. You particularly questioned the division of revenue resulting from liquor law violations and pistol law violations. The questions have been raised in the light of the provisions of [Section 14-21-490, Code of Laws of South Carolina](#), 1976, as amended, which states that:

'(e)xcept for those drug fines and forfeitures remitted to the Department of Mental Health as provided in § 44-53-580, and except for those fines and forfeitures for game or fish law violations used for the purposes enumerated in §§ [50-1-150](#) and [50-1-170 of the 1976 Code](#), on July 1, 1977, three-fourths of all costs, fees, fines, penalties, forfeitures and other revenues generated by the circuit courts and the family courts established by this act shall be paid over to the county in which the proceeding is instituted and one-fourth of such revenues shall be remitted to the State for use in deferring the costs of the unified court system. The provisions of this section shall specifically not apply to any fine, penalty, forfeiture or other revenue generated in the magistrates' or municipal courts of this State.'

Such provision worked as an implied repeal of portions of [Section 14-17-720, Code of Laws of South Carolina](#), 1976, which generally allowed a county to retain all of the fines, etc., received by the General Sessions Court. Therefore, except for cases concerning drug violations and fish and game law violations, the State is to receive one-fourth of the revenue generated in the General Sessions Court.

As to revenue generated by certain liquor law violations, pursuant to Sections 61-13-480 and 61-13-490, Code of Laws of South Carolina, 1976, the General Assembly had previously provided that such revenue was to be split evenly between a county and a municipality if a municipality's officers are responsible for the conviction. In your memorandum you state that:

'... the sections discussing the disposition of certain liquor law fines are superseded by [Section 14-21-490](#) to the extent that the county and municipality split only the portion remaining after one-fourth of the revenue is turned over to the State.'

As to certain pistol law violations, pursuant to [Section 16-23-50, Code of Laws of South Carolina](#), 1976, as amended, it had been provided that fines collected as a result of convictions for such violations should be returned to a municipality if a violation occurs within a municipality. A county was to retain the fines only if a violation occurred outside a municipality. In your memorandum you state:

'(a)s with liquor law violations . . . , pistol law violations are not exempted from [Section 14-21-490](#)'s general rule. Therefore, one-fourth of all such fines is to be remitted to the State and the remaining, three-fourths will be delivered to the appropriate municipality or to the county treasurer.'

\*2 In the opinion of this office, the interpretation by your office as expressed above as to liquor law violations and pistol law violations appears to be correct. It appears that the principle intent of [Section 14-21-490](#), *supra*, was to amend the general law so as to provide that the State was to receive one-fourth of certain revenues generated in the circuit and family courts to defer costs of the unified judicial system. Such intent is especially supported by the Title to Act 690 of 1976, from which Section 14-21-190 is taken, which states that such act was an act 'to transfer one-fourth of certain fines generated in the circuit courts and family courts to the State . . .'

It appears that the special statutes pertaining to liquor law and pistol law violations and [Section 14-21-490](#), *supra*, which directs the disposition of fines generally should be construed together. It is generally provided that:

'general and special acts may be in *pari materia*. If so, they should be construed together. Where one statute deals with a subject in general terms, and another deals with a part of the same subject in a more detailed way, the two should be harmonized if possible . . .'

2A Sutherland, Statutes and Statutory Construction, Section 51.05, p. 315.

Recognizing that repeals by implication are generally not favored, it has been stated that:

' . . . the policy against implied repeals has peculiar and special force when the conflicting provisions which are thought to work a repeal are contained in a special or specific act and a later general or broad act . . . Hence, it is a canon of statutory construction that a latter statute general in its terms and not expressly repealing a period special or specific statute will be considered as not intended to effect the special or specific provisions of the earlier statute, unless the intention to effect the repeal is clearly manifested or unavoidably implied by the irreconcilability of the continued operation of both.' 73 Am. Jur. 2d, Statutes, Section 417, pp. 521-522.

Examining the statutes dealing with liquor law and pistol law violations and [Section 14-21-490](#), *supra*, it is clear that the provisions are reconcilable. As stated earlier, [Section 14-21-490](#), *supra*, was enacted to provide that one-fourth of the revenues generated in the General Sessions Courts be payable to the State. Recognizing such intention, the provisions dealing with liquor law violations and pistol law violations should be construed as exceptions to the provisions directing how the remaining three-fourths of the revenue is be handled. Therefore, municipalities, in appropriate circumstances, should continue to receive the portions as directed by the General Assembly in earlier special legislation out of such remaining three-fourths.

I am aware that a previous letter from this office reached a conclusion contrary to the above opinion as to revenue from pistol law violations. However, it is now our opinion that the conclusion of such letter was erroneous.

\*3 If there are any questions, please contact me.

Sincerely,

Charles H. Richardson  
Assistant Attorney General

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