

1982 WL 189142 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 18, 1982

*1 Honorable Ralph H. Ellis
Member
South Carolina Senate
Box 66
Little River, South Carolina 29566

Dear Senator:

On December 17, 1981, you requested that I give you some information as to the legal issues that would be involved in the operation of a vessel more than three miles offshore from this state to conduct some operations that would include a casino, some types of films, and other matters, the extent to which is not known to me.

As you are probably aware, a federal statute exists, which is enforceable only by the federal authorities, and which relates to 'gambling ships.' This statute is applicable to those vessels used principally for one or more gambling establishments, and this is the only federal action of which I am aware that relates to the problem you have presented.

From a state standpoint, the United States Supreme Court has considered this matter in a case which I am citing at the foot of this letter. The net effect of that decision is that the state may exercise its authority over its citizens when they are beyond the three-mile limit as long as an important state interest is involved and there is no conflict with federal legislation. There appears to be no decisions regarding the meaning of the term 'important state interest' as used in such circumstances, and it is uncertain as to whether they would extend to a state interest to prohibit gambling, pornographic or pirated films, or other interests that may appear. In other words, the state is not entirely helpless to regulate the conduct of its citizens beyond its territorial jurisdiction when offshore waters are involved. Another factor to be considered is whether the vessel itself is registered or licensed in the State of South Carolina. A South Carolina vessel is in legal contemplation considered the territory of the state afloat. I have no idea as to what the facts are in the details which you have related to me in this respect.

Where you have conservation measures, such as the protection of menhaden, sponges or crawfish, etc., a dominant state interest may exist to warrant a state precluding its citizens from violating its conservation laws. This is what existed in a number of cases which we have located on this issue, but whether or not other interests which the state might assert, such as those which I have outlined above, would exist in the matter about which you have asked, only a court can answer.

In this state it does not appear to me that additional legislation is needed insofar as gambling is concerned, but further discovery of the facts as they may ultimately exist would be necessary in order to determine if present law is sufficient to meet any contingency or whether additional legislation may be needed.

I hope that the foregoing will be of some assistance to you. If I may be of further help, please call upon me.

With best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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