

1981 WL 157962 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 14, 1981

*1 The Honorable William C. Barnes
Sheriff of Florence County
Drawer P
Room 204
City County Complex
Florence, South Carolina 29501

Dear Sheriff Barnes:

Attorney General McLeod has referred your letter of September 4, 1981, to me for reply. You have asked if a flea market may lawfully operate on Sunday if no sales take place but rather patrons are allowed 'to swap merchandise back and forth with no money exchanged.'

This 'swap' idea for the flea market in question might not violate the provisions of [Section 53-1-40, South Carolina Code of Laws](#) (1976), as amended, which prohibit '... the selling or offering to sell, ... to the consumer any goods, wares or merchandise ...' However, the mere characterization of the terms of an exchange of merchandise as a 'swap' does not control the legality of the activity. Although [Section 53-1-40](#) contains no specific prohibition against swapping or bartering merchandise on Sunday, and thus such an exchange may not be violative of that Section's prohibition against sales, it must be remembered that selling is not the only activity prohibited by the Blue Laws. [Section 53-1-40](#) also provides: '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 ...' The operation of a flea market by its owner would appear to be 'worldly work' and 'business of his ordinary calling,' regardless of whether merchandise is sold or swapped. Therefore, it is the opinion of this office that such activity is prohibited by the Blue Laws, [Section 53-1-40](#).

In view of the above, it is unnecessary to address the propriety of a live band playing music while the flea market is in operation on Sunday.

I hope you will find this opinion helpful, and if I can be of any further assistance, please do not hesitate to contact me.
Sincerely,

John M. Barton
Assistant Attorney General

1981 WL 157962 (S.C.A.G.)

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.