

1980 WL 120954 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 28, 1980

*1 Honorable James R. Metts
Sheriff of Lexington County
521 Gibson Road
Lexington, SC 29072

Dear Jimmy:

In a letter to this Office you asked whether businesses engaged in buying gold and other precious metals are operating in violation of this State's blue laws' if they engage in such a practice on Sunday. You also questioned whether the sale of such metals to the referenced businesses on Sunday would violate the 'blue laws'.

It has been determined by the South Carolina Supreme Court in [State v. Solomon, 245 S.C. 550 \(1965\)](#) that pursuant to the Sunday closing law as specified by [Section 53-1-40, Code of Laws of South Carolina, 1976](#), three separate offenses are created. They are:

- (1) engaging in worldly work, labor, or business of one's ordinary calling on Sunday;
- (2) selling or offering to sell, publicly or privately or by telephone, at retail or wholesale to the consumer any goods, wares or merchandise on Sunday;
- (3) employing others to engage in work, labor, business or selling or offering to sell any goods, wares or merchandise on Sunday.

[Section 53-1-40](#) exempts 'work of necessity or charity' from the aforementioned prohibitions. Referencing the above prohibition against 'engaging in business of one's ordinary calling on Sunday', it appears that generally it would be a violation of this State's 'blue laws' for a business which typically and ordinarily is engaged in the business of buying gold and other precious metals to engage in such practice on Sunday.

As to the question concerning whether the sale of gold or other metals to such businesses on Sunday would be in violation of the 'blue laws', I assume you are referencing the sale of such by private individuals. Typically, questions involving a construction of the 'blue laws' involve sales by merchants who ordinarily engage in such practices. However, as referenced above, the 'selling or offering to sell, publicly or privately . . . at retail or wholesale to the consumer any goods, wares or merchandise on Sunday' is prohibited. Arguably 'consumer' could be construed to include an individual who deals in precious metals.

This Office has in previous opinions dated August 23, 1971 and May 23, 1975, stated that the sale of items at flea markets, which typically involve the sale of goods by private individuals who are not considered to be merchants by profession, is prohibited on Sunday unless the items offered for sale are specifically permitted by [Section 53-1-50, Code of Laws of South Carolina, 1976](#). A review of such provision does not indicate that the sale of gold and other precious metals on Sunday is permitted. Moreover, the sale of jewelry and silverware on Sunday is expressly prohibited by [Section 53-1-60, Code of Laws of South Carolina, 1976](#). It appears, therefore, that the sale of gold and other precious metals by an individual to a business would probably be in violation of this State's 'blue laws'. However, such statement is not free from doubt inasmuch as I have found no instances where such a situation has been examined by the courts in this State.

*2 As to your remaining questions concerning the state constable who wishes to become a reserve officer, in my letter to you dated September 12, 1980, it was stated that the simultaneous holding of the offices of state constable and reserve police officer would contravene the provision of the South Carolina Constitution prohibiting dual office holding. Therefore a response to your questions appears unnecessary.

If there are any questions concerning the above, please contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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