

1977 WL 37287 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 4, 1977

**\*1** THE STATUTES GOVERNING LICENSING OF PEDDLERS AND HAWKERS ARE NOT APPLICABLE TO DOOR TO DOOR VENDORS OF MAGAZINE SUBSCRIPTIONS.

Representative Jean B. Meyers  
District 103  
Horry County

QUESTION PRESENTED:

Are Sections 56-1201 through 56-1219 of the Code of Laws of South Carolina, 1962, as amended, applicable to door to door vendors of magazine subscriptions?

STATUTES AND CITATIONS INVOLVED:

Section 56-1201-56-1219, Code of Laws of South Carolina, 1962, as amended.

[State v. Belcher](#), 1 McM. (26 S.C.L.) 40 (1840).

[State v. Moorehead](#), 42 S.C. 211, 20 S.E. 544 (1894).

[State v. Ivey](#), 73 S.C. 282, S.E. 428 (1905).

60 Am.Jur.2d, Peddlers, Solicitors, and Transient Dealers, Section 10.

DISCUSSION:

The statutes involved apply only to peddlers and hawkers. Therefore the primary issue is whether door to door vendors of magazine subscriptions are peddlers and hawkers within the meaning of the statutes.

In [State v. Belcher](#), 1 McM. (26 S.C.L.) 40 (1840), a peddler or hawker was defined as a person who ‘travels from town to town or from one plantation to another, carrying to sell, or exposing to sale, goods, wares and merchandises.’ [Id.](#) at 41. However, the Supreme Court of South Carolina has held that one who merely solicits orders and does not deliver the goods at the time of sale is not a peddler or hawker. In [State v. Moorehead](#), 42 S.C. 211, 20 S.E. 544 (1894) it was held that a traveling salesman of sewing machines who solicited orders and sold by sample was not a hawker or peddler within the meaning of the statute requiring licenses for peddlers and hawkers. Also see [State v. Ivey](#), 73 S.C. 282, 53 S.E. 428 (1905). The position of the South Carolina Court is thus consistent with the following statement from 60 Am.Jur.2d, Peddlers, Solicitors, and Transient Dealers, Section 10 at page 750:

It is well settled that a person who solicits and obtains orders for goods by the display of samples, and delivers none of the goods at the time of sale, is not a peddler, since the essential prerequisites of concurrent sale and delivery are lacking.

From the foregoing authorities it seems clear that door to door vendors of magazine subscriptions are not peddlers or hawkers. In selling magazine subscriptions, these vendors are merely soliciting and obtaining orders for magazines to be delivered in the future and not concurrently with the sale.

CONCLUSION:

It is therefore the opinion of this office that, since door to door vendors of magazine subscriptions are not peddlers and hawkers, Sections 56-1201-56-1219 of the Code of Laws of South Carolina, 1962, as amended, are not applicable to them.

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