

1977 WL 37290 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 5, 1977

*1 William F. Cotty, Esquire
South Carolina Wildlife and Marine Resources Department
Post Office Box 167
Columbia, South Carolina 29202

Dear Mr. Cotty:

You have requested an opinion as to the constitutionality of three statutes (Sections 28-480, 28-482 and 28-481.2, 1962 Code of Laws) which pertain to trapping in Greenville County. The statutes provide as follows:

Section 28-480:

The provisions of Sections 28-475 to 28-479 relating to the trapping of fur-bearing animals shall not apply to Greenville County.

Section 28-482:

The provisions of Section 28-481.1 shall not apply to Greenville County. In Greenville County the open season for trapping shall be from Thanksgiving day to March first of the succeeding year.

Section 28-481.2:

The trapping season of fur-bearing animals in Game Zone No. 1, except Greenville County, Game Zone No. 2, except Laurens County, and Game Zone No. 4 shall be from Thanksgiving day to January thirty-first, except that it shall be unlawful to trap raccoons in Game Zones No. 1 and No. 2.

Since all three statutes were enacted prior to 1973, Article 8, Section 7, of the South Carolina Constitution, which prohibits laws for specific counties, is not applicable; see [Neel v. Shealy, 261 S.C. 266, 199 S.E.2d 542 \(1973\)](#). However, Article 3, Section 34 provides:

The General Assembly of this State shall not enact local or special laws concerning any of the following subjects or for any of the following purposes, to wit:

VI. To provide for the protection of game.

Provided, that the General Assembly is empowered to divide the State into as many zones as may appear practicable, and to enact legislation as may appear proper for the protection of game in the several zones.

It is clear that the Constitution recognizes the regional diversities within the State and that it has provided for more localized legislation where game laws are involved. However, it is likely that if the Constitution had been intended to authorize specialized legislation at the county level, it would have contained specific language to that effect. Instead, it provides for the creation of game zones, and when such zones were created by Section 28-5, they were multi-county zones. It is arguable that every subsequent act which changes the law for a specific county is a pro tanto finding that a county constitutes a game zone in and of itself. However, this is not likely to be tenable, because legislation which pertains to one or more existing game zones is enacted every year. Such enactments would appear to reinstate a multi-county game zone even if it had previously been impliedly broken down into separate counties. It is therefore the opinion of this Office that if these statutes were tested in court, they would in all likelihood be held violative of Article 3, Section 34. See [Sloan v. Fair, 172 S.C. 485, 174 S.E. 436 \(1934\)](#), in which special game legislation for Greenville County was held violative of Article 3, Section 34.

*2 In the meantime, a question remains as to the season for trapping within Greenville County. It can be argued that trapping is prohibited altogether in Greenville County by Section 28-480, which excepts Greenville County from Sections 28-475 to 28-479, but the plain meaning of Section 28-480 is only to except trappers in the county from various licensing and notice requirements rather than to prohibit all trapping in the county. Assuming, then, that trapping in Greenville County is permissible, Section 28-482 plainly provides that the open season shall be from Thanksgiving Day to March 1 of the succeeding year.

Please let me know if I can be of any further help.

Sincerely yours,

Kenneth P. Woodington
Assistant Attorney General

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