

1976 WL 30667 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 13, 1976

\*1 The Honorable John T. Wood  
Member  
House of Representatives  
Greenville County  
Tigerville, South Carolina 29688

Dear Mr. Wood:

You have requested my opinion on the constitutionality of House Bill H. 3442, A Bill to Prohibit State Agencies From Purchasing Foreign Beef and to Provide for Penalties.

Under [Article I, Section 8, Clause 3 of the Constitution of the United States](#), the power of the Congress is exclusive in the areas of foreign and interstate commerce. The authority of Congress in this area acts as a limitation on the exercise of the State's police power even in the absence of congressional action. [Richfield Oil Company v. State Board of Equalization](#), 329 U.S. 69, 91 L.Ed. 80.

The only exception to this very broad limitation is found in those areas of local interest and concern which have not been made the subject of federal regulation. [South Carolina State Highway Department v. Barnwell Brothers](#), 303 U.S. 177, 82 L.Ed. 734. The states may act in such areas but the police power cannot be exercised so as to either directly regulate or discriminate against either foreign or interstate commerce. [Parker v. Brown](#), 317 U.S. 341, 87 L.Ed. 315.

In my opinion, House Bill H. 3442 purports to both directly regulate and discriminate against foreign commerce and would therefore be unconstitutional.

Very truly yours,

Daniel R. McLeod  
Attorney General

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