

1978 S.C. Op. Atty. Gen. 20 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-9, 1978 WL 22496

Office of the Attorney General

State of South Carolina

Opinion No. 78-9

January 6, 1978

*1 Mr. Michael W. Battle
Division of General Services
300 Gervais Street
Columbia, South Carolina 29201

Dear Mr. Battle:

You have requested an opinion on whether or not the State Fire Marshal can modify Regulation 19-61(10) to permit the sale of fireworks called 'M-50's'.

These fireworks are of the type commonly called 'firecrackers'. They are cylindrical in shape, have a casing and a fuse leading to the explosive compound. They have a diameter greater than one-quarter inch and contain less than two grains of pyrotechnic composition.

The applicable and controlling section is [Section 23-35-10\(8\) of the 1976 Code](#), which is modeled verbatim upon 39 C.F.R. 173.100, promulgated by the United States Department of Transportation, with the exception of the underlined portion set forth below:

(8) Firecrackers and salutes with casings, the external dimensions of which do not exceed one and one-half inches in length and one-quarter inch in diameter, and other items designed to produce an audible effect, any pyrotechnic composition not to exceed two grains each in weight; . . . [Emphasis added.]

There are three limitations imposed upon firecrackers and salutes with casings by the subsection quoted above:

- (a) they must not exceed one and one-half inches in length;
- (b) they must not exceed one quarter inch in diameter; and
- (c) their pyrotechnic composition must not exceed two grains in weight.

The 'M-50' exceeds at least two of these limitations and is therefore not a permissible firework and the regulations of your Department cannot alter these dimensions so as to permit them.

The underlined words in the subsection 'and other items designed to produce an audible effect', in my opinion, reach items other than firecrackers and salutes but which are designed to produce audible effects, and such items are subject to all of the limitations imposed upon firecrackers and salutes with casings. The rule of the *ejusdem generis* requires that when words of a same import in a statute follow words of particular or restrictive import related to the same subject matter the words of restrictive import will operate to limit or restrict the words of general import. See, [Johnson v. Pratt, 200 S.C. 315, 20 S.E.2d 865](#). By this rule, where items which are not firecrackers or salutes with casings are involved, they are subject to the same limitations as are imposed upon firecrackers and salutes. Resort to the rule is not necessary in this instance for the reason that the 'M-50' does not come within the classification of 'other items' but is instead a

firecracker and subject to the limitations imposed upon such devices. Even if it were another item, it would still be subject to those limitations.

I, therefore, advise that, in my opinion, the 'M-50' cannot be permitted by rule or regulation of your Department.

Very truly yours,

Daniel R. McLeod

Attorney General

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