

1978 WL 35032 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 10, 1978

*1 Honorable Thomas E. Smith, Jr.
Senator
District No. 11
Post Office Box 308
Pamplico, South Carolina 29583

Dear Senator Smith:

You have requested an opinion from this office as to whether [Section 39-19-210, SOUTH CAROLINA CODE OF LAWS, 1976](#), requires tobacco sales to be made by auction, and if so, whether such sales would be exempt from the auctioneer licensing requirements of Act No. 111 ([§ 40-6-20, SOUTH CAROLINA CODE OF LAWS, 1976](#)). It is our opinion that state law does not require the sale of tobacco to be made at auction and, therefore, any such tobacco auctioneers are under the state licensing requirement.

The state statute which you cited at [Section 39-19-210, et seq., SOUTH CAROLINA CODE OF LAWS, 1976](#), does not require the sale of tobacco to be made at auction. It quite clearly contemplates that certain tobacco will be sold at auction. (See, e.g., [§ 39-19-220, SOUTH CAROLINA CODE OF LAWS, 1976](#).) This code section does not require that the sale must be made at auction. Therefore, the sale of tobacco does not fall within any exception to the general law which requires an auctioneer in this state to possess a valid state auctioneer license.

Attached is an opinion letter addressed to Mr. Frank Caggiano which applies the state auctioneer licensing statute to the sale of tobacco sold pursuant to federal price support programs.

Sincerely yours,

David C. Eckstrom
Staff Attorney

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