

1975 WL 29380 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 8, 1975

\*1 Charles T. Smith  
Director  
Consumer Protection Division  
South Carolina Department of Agriculture  
Wade Hampton Office Building  
P. O. Box 11280  
Columbia, South Carolina 29211

Dear Mr. Smith:

You have written concerning the question of the necessity of obtaining a seed license in order to sell ornamental bulbs. Though Section 3-401 South Carolina Code of Laws lacks the specificity which we might prefer, by reading § 3-401 with other Sections of the Code, notably § 3-444, I have determined that sellers of bulbs are required by § 3-404 to obtain a seed license. Code § 3-446(3) defines a flower bulb as a 'plant', as opposed to a 'seed'. However, § 3-444 states that: 'Certification of seeds and plants in so far as it concerns germination and mechanical purity of the seed shall depend upon the reports of the seed laboratory of the State Department of Agriculture.' The licensing provision of § 3-404 is specifically designed to provide a fund to defray such examination-related expenses, including those prescribed in Article 5 of this Chapter, wherein § 3-444 is found. Therefore, for the purpose of attaching the license fee liability of § 3-404, I would construe ornamental bulbs as falling within the § 3-401(3) definition of seeds 'generally known by the name of flower seed'.

If we may be of any further assistance in the future, please do not hesitate to call on us.

Sincerely,

Jim Garner  
Law Clerk

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