

1975 WL 29603 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 20, 1975

*1 Joseph H. Earle, Jr., Esquire
Attorney at Law
First Federal Building
301 College Street
Greenville, South Carolina 29601

Dear Mr. Earle:

You have requested an opinion from this Office as to whether or not the Greenville County Ordinance (No. 317) creating the Greenville County Emergency Medical Service Commission can prescribe criminal penalties for violations of certain of its provisions.

Ordinance No. 317 was enacted pursuant to Act No. 902 of 1974 (58 Stat. 1970) which became law on February 13, 1974. Act No. 902 authorized the Greenville County Council to levy a tax for the creation and operation of the Greenville County Emergency Medical Service Commission for the purpose of furnishing ambulance and related services. On June 6, 1974, however, the General Assembly enacted Act No. 1063 (58 Stat. 2277), a general law empowering the governing body of any county:

[to] by ordinance or resolution provide that the county shall engage in fire fighting and fire protection and ambulance service.

Section 2 of that Act provides that the governing body of any county which engages in the above-mentioned services is authorized to promulgate rules and regulations to carry out and regulate such services. Section 3 then states:

Any person violating the provisions of such rules and regulations shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars or imprisoned not more than thirty days.

Inasmuch as the continued validity of the earlier special law, Act No. 902, is, in our opinion, questionable by virtue of the fact that it may have been impliedly repealed by the later general law, Act No. 1063, ([see, e.g., State v. Alexander, 14 Rich. Law 247](#)) we are presuming that the Greenville County Council in promulgating Ordinance No. 317, has acted in accordance with Act No. 1063. In that case, the statute itself provides criminal penalties for violations of any rules and regulations passed by county governing bodies in order to regulate and carry out the functions authorized by the statute and the law is well settled that the provisions of a statute of state-wide application cannot be altered or restricted by a local ordinance. [See, 5 McQuillin Mun. Corp. \(3rd Ed.\) §§ 15.20 and 15.22.](#)

In the event that Act No. 902 has not been impliedly repealed by Act No. 1063, we agree with your conclusion that, in the absence of specific legislative authorization to provide criminal sanctions within a proposed ordinance or resolution, as would be the case with Act No. 902, the inclusion of such sanctions would not be valid.

With kind regards,

Karen L. Henderson
Assistant Attorney General

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