

1974 S.C. Op. Atty. Gen. 182 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3800, 1974 WL 21307

Office of the Attorney General

State of South Carolina

Opinion No. 3800

June 13, 1974

**\*1 Re: Regulations with regard to the \$18,000.00 limitation of sale of meat by retail stores to eating establishments promulgated by the State Director pursuant to the 'Meat and Meat Food Regulations and Inspection Law' § 6-611, et seq., CODE OF LAWS OF SOUTH CAROLINA (1962) (Supp.)**

The Honorable Charles E. Hodges

Member

House of Representatives

State of South Carolina

Columbia, South Carolina

Dear Representative Hodges:

Your letter of March 5, 1974, concerning the validity of certain regulations promulgated by the Director of the 'South Carolina Meat and Meat Food Regulations and Inspection Law' has been referred to me for answer. This opinion is restricted to the question proffered by you as to the validity of the regulation setting a dollar limit upon the quantity of meat sold by a retail store to an eating establishment.

Under the State Meat Inspection Law, the State Director has been delegated the authority to promulgate such rules and regulations and appoint such veterinarians and other qualified personnel as are necessary to carry out the purposes or provisions of this article. Such rules and regulations shall be in conformity with the rules and regulations under the Federal Meat Inspection Act and the South Carolina State Board of Health as now in effect and with subsequent amendments thereof unless they are considered by the Director as not to be in accord with the objectives of this article. § 6-620.3 CODE OF LAWS OF SOUTH CAROLINA (1962) (Supp.)

It is established law in South Carolina that the State Legislature may vest an administrative agency with rule making power for the purpose of carrying out the legislative will as expressed in statutory form. [Lee v. Michigan Millers Tutul Insurance Co.](#), 250 S.C. 462, 158 S.E. 2d 774 (1968). The administrative agency may only exercise its rule making powers in accordance with the standards prescribed by the statutes which confer that power upon it. [Hodge v. Pollack](#), 223 S.C. 342, 75 S.E. 2d 752 (1953). Moreover, the agency is restricted to 'filling up the details' of the statutes to insure the complete operation and enforcement of the law. [Heyward v. South Carolina Tax Commission](#), 240 S.C. 347, 126 S.E. 2d 15 (1962). Finally, in no instance may an agency's rule or regulation alter or add to the existing law. [Banks v. Batesburg Hauling Co.](#), 202 S.C. 273, 24 S.E. 2d 496 (1942).

The Director's power to promulgate regulations, therefore, is limited to establishing regulations in conformity with the 'Meat and Meat Food Regulations and Inspection Law,' § 6-611, et. seq., CODE OF LAWS OF SOUTH CAROLINA (1962) (Supp.) One of the exemptions to the Inspection Law is that:

The provisions of this article [the Meat Inspection Law] requiring inspection by the Director shall not apply:

...

To retail dealers with respect to meat or meat products sold to eating establishments, places which furnish meals as a part of their activities or functions . . . § 6-619(2), CODE OF LAWS OF SOUTH CAROLINA (1962) (Supp.) Emphasis supplied)

\*2 You question the validity of the regulation which seeks to require inspection where a retail store sells a quantity of meat greater than \$18,000.00 per year. The regulation in question defines a retail store as ‘any place of business where . . . the total dollar value of sales of products to consumers other than household consumers does not exceed \$18,000 per year . . .’ § 303.1(d)(2)(iii), USDA Regulations. Limiting the uninspected sale of a retail establishment to a dollar amount is an alteration of the blanket exemption as to quantity of such a sale found in § 6-619(2).

Thus, it is the opinion of this office that that part of the regulation putting a dollar limitation on the amount of meat a retail store can sell to an eating establishment and retain its inspection exemption is not within the power of the Director to promulgate and this part of the regulation is invalid.

Yours very truly,

M. Elizabeth Crum  
Assistant Attorney General

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