

1973 WL 26896 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 21, 1973

***1 re: Feeding of Garbage to Swine**

Carl E. Boyd, D.V.M.
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Mr. Blake E. Taylor, Jr.
Superintendent
Givens Youth Correction Center
P. O. Box 277
Simpsonville, South Carolina 29681

Dear Sirs:

Each of you gentlemen have requested opinions from this office on precisely the same subject, and, therefore, I find it convenient, and I hope not objectionable to you, to answer you simultaneously. I apologize for the delay in preparing a reply, but at the time of my receipt of Mr. Taylor's letter, I was made aware that another member of this office had a similar request for an opinion and I felt compelled to discover who that was and coordinate a response. As it is, I have been asked to reply to you both.

Your inquiry is as to the legality of the practice of feeding table scraps (garbage) to hogs which are raised at various state institutions, as Givens Youth Correction Center, Wateree River Correctional Institution and MacDongall Youth Correction Center, etc., where this meat is raised, slaughtered, butchered, and consumed within the South Carolina Department of Corrections by inmates and staff members on duty. By logical extension, the inquiry and response can be extended to cover various county and local institutions with similar practices. The inquiry is made in light of Act No. 1185, 1970 Acts and Joint Resolutions of South Carolina, entitled 'An Act to Prohibit the Feeding of Garbage to Swine', which law went into effect July 1, 1973, and is codified in Title 6, Chapter 5, Article 6.1, Sections 521-528, Code of Laws of South Carolina, 1962, as amended.

Prior to July 1, 1973, the feeding of garbage to swine was permitted subject to the requirements of Title 6, Chapter 5, Article 6, Sections 501-514, Code of Laws of S. C., 1962. Section 512 charged the Livestock-Poultry Health Department of The Clemson Agricultural College of South Carolina (now Clemson University) with the administration and enforcement of the provisions of the article and authorized the Department to make and enforce all rules and regulations deemed necessary to carry out its purposes. The law did not contain a specific statement of purpose but all of its provisions taken in context make it abundantly clear that it was intended to enable the Livestock-Poultry Health Department of Clemson University to eliminate and prevent the 'spread and disease in either animal or human health.' (Section 507)

Under the law a person could feed boiled garbage to swine provided written application had been made to, and a permit granted by, the appropriate authorities of Clemson University. Section 501(2) provided: "Person' shall mean the State, any municipality, political subdivision, institution, public or private corporation, individual, partnership or any other entity.'

An exemption was allowed whereby a person could feed garbage without a permit. Thus, Section 513 provided:

*2 Exemptions—This article shall not apply to any person who feeds only his own household garbage to swine, except that no person shall sell or offer for sale any hogs which have consumed any raw garbage within thirty days of sale, but in case of such sale no permit shall be required as provided elsewhere in this article.’

The Act of May 1, 1970, repealed, in its entirety, Article 6, Chapter 5, Title 6, some sections of which have been discussed above. Current law prohibits the feeding of any garbage to swine, and again charges the Livestock-Poultry Health Department of Clemson University with enforcement responsibility. It repeats verbatim, in Section 521(b), the definition of ‘person’ contained in former Section 501(2), and it contains, in Section 528, the following exemption which allows the feeding of garbage notwithstanding the general prohibition:

‘This article shall not apply to any person who feeds his own household garbage to swine, except that no person shall sell or offer for sale any hogs which have consumed any garbage within thirty days of sale.’

Response to your inquiries necessitate clarification of the meaning of the word ‘person’ as it is used in the context of the above-quoted exemption. The crux of that question is whether Section 8 only exempts a ‘private individual’ who desires to throw his table scraps or personal household garbage into his own pig pen, or whether it also exempts state, local and private institutions such as state hospitals, prison camps, orphanages, etc. who feed their own dining room or cafeteria garbage to swine which they own, as ‘persons’ within the definition of same.

If it is assumed that the various enumerated institutions are covered by the exclusion, this would create the anomalous situation whereby today they can feed their swine raw garbage, since the former requirement of boiling has been repealed. It is certainly inappropriate to attribute this possible result to the intention of the General Assembly in passing and the Governor in approving the present law.

Moreover, if they are exempt under the present law, they were exempt before, since the substantive aspects of both exemption provisions are identical. Yet they applied for and received permits; they fed only cooked garbage to their swine; and they were otherwise subject to the former requirements of law.

Bearing in mind that the prior law required the boiling for one-half hour of garbage intended for swine, the exemption permitted the feeding of raw garbage because the quantity would be relatively small when it consisted only of a person's own household garbage. Since the present law prohibits the feeding of any garbage, the exemption under the present law must be construed in such a way that any garbage permitted to be fed thereunder would similarly be small in quantity. This would not be the case if these institutions are exempt.

In right of the foregoing considerations, it is my opinion that the word, person, in Section 528 means only the person included in the definition in Section 521(b) who is also a householder, i.e., and ‘individual’. None of the other entities identified in the definition as persons, i.e., the State, any municipality, political subdivision, institution, public or private corporation, partnership, or any other entity, has ‘his own household’.

*3 This interpretation serves the purpose of the law by keeping to a bare minimum the feeding of garbage to swine. Any other interpretation would defeat the purpose of the law by permitting large quantities of untreated garbage to be fed without inspection or regulation of any kind other than that during the 30-day period before sale they would have to be fed something besides garbage.

I bow to Dr. Boyd's expertise in asserting that to allow this, might jeopardize the entire hog cholera eradication program which has been so costly to the State over the past several years.

There has been expressed some concern that the feeding of garbage to swine has continued in Greenville County institutions despite this new law. I am informing Mr. John P. Ashmore, Jr., County Supervisor of Greenville County, of the illegality of this by sending him a copy of this opinion.

If I can be of further help in clarifying the matter, please call.

Yours very truly,

Randolph R. Mahan
Assistant Attorney General

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