

1973 S.C. Op. Att'y. Gen. 331 (S.C.A.G.), 1973 S.C. Op. Att'y. Gen. No. 3647, 1973 WL 21098

Office of the Attorney General

State of South Carolina

Opinion No. 3647

October 22, 1973

\*1 The Honorable John C. West  
Governor  
Columbia, South Carolina

Dear Governor West:

In response to your inquiry, we have surveyed the statutes which might relate to your authority to impose a charge or surtax upon oil supplies allocated to this State so as to provide a source of funds for the operation of the allocation procedures.

Act No. 128 was approved by you on April 6, 1973. The purpose of that Act is to provide for civil defense and disaster control. Pursuant to its terms, the Governor is authorized to declare a state of emergency if he finds that a disaster has occurred, or that the threat thereof is imminent, and extraordinary measures are necessary to cope with the existing or anticipated situation. 'Disaster' means enemy attack, sabotage, conflagration, flood, storm, epidemic, earthquake, riot, or other public calamity. A state of emergency may not continue for a period of more than fifteen days without the consent of the General Assembly.

During the period of emergency and to enable the Governor to discharge his responsibility for the safety, security and welfare of the State, he is authorized to issue emergency proclamations and regulations which shall have the full force and effect of law as long as the emergency exists.

It is my view that the restriction upon the use of oil, which will be nationwide and which may reasonably be expected to attain a greater degree of severity as the Middle East conflict becomes aggravated, and particularly with the onset of the Winter season, creates, in my opinion, the threat of an imminent disaster as contemplated by the provisions of Act No. 128. The necessity with which you are faced of allocating South Carolina's share of national oil supplies will require the expenditure of funds which are not otherwise available.

In my opinion, you have authority under Act No. 128 of 1973 to declare a state of emergency to meet the extraordinary circumstances with which you are faced by reason of a severe shortage of oil. Authority likewise is vested in you, in my opinion, to impose charges for oils distributed under your authority to raise necessary monies for the implementation of distribution procedures.

Very truly yours,

Daniel R. MoLeod  
Attorney General

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