

1972 WL 25180 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 18, 1972

*1 The Honorable Allen L. Luke, Jr.
Mayor
Town of Summerville
104 Civic Center
Summerville, South Carolina 29483

Dear Mayor Luke:

Thank you for your letter of January 17 concerning the application of the Sunday observance statutes in your town. You inquire as to whether the responsibility of enforcement is on the local police or upon the State Law Enforcement Division.

Criminal prosecutions may be instituted, of course, by any individual who is in a position to sign the affidavit necessary for an arrest warrant. If criminal proceedings are to be followed, the arrest warrant should be issued, and the matter will come up in due course before the Court of General Sessions, as the penalty for the offense exceeds the jurisdictional limits of a magistrate.

You will note also that injunctive relief is provided for by the provisions of Section 64-2.4, Code of Laws of S. C., 1962. This is generally the most practical and effective means of relief, in my view.

In answer of your specific inquiry, I advise that injunctive relief may be obtained on application of 'any state, county, or municipal law enforcement officer.' In previous administrations it has been the policy for county law enforcement officers to leave the enforcement of the Sunday statutes in the hands of local officers, county or municipal, and to not involve the SLED in what is essentially a local problem.

This was followed in the Charleston cases, as well as several others which come readily to mind. I would assume that this is the policy which Governor West will continue.

I would suggest that the City Attorney, if you have one, be consulted, and a determination made as to whether you wish criminal action made, in which case the municipal law enforcement officers can procure arrest warrants upon appropriate proof of the offense. If the injunctive route is to be followed, I would suggest also that the City law enforcement officers make application for injunction.

I am in complete agreement with you that the law should be uniformly enforced, but I recognize that it is replete with random enforcement in many areas and is generally called into play by public demand or by demand of businesses which comply with the law. The enforcement in one area leads to demands for enforcement in other areas on frequent occasions and many times leads to most difficult problems. On balance, it is my view that injunctive relief is probably the most desirable avenue to achieve a tolerable degree of compliance.

With best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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