



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

March 28, 1995

The Honorable Gene Taylor
Sheriff, Anderson County
Post Office Box 5497
Anderson, South Carolina 29623

Re: Informal Opinion

Dear Sheriff Taylor:

Attorney General Condon has referred to me your inquiry of March 14, 1995. You asked about the Sunday closing laws in South Carolina, commonly known as the "Blue Laws," found at Sections 53-1-5 et seq. Specifically, Sams Club, a private shopping store, is reportedly opening in Anderson County on Sundays. Your question was whether or not a "private shopping club" would change its status with regard to the Blue Laws.

I understand from your conversation with Assistant Attorney General James Bogle that your Office has not yet received a citizen complaint, nor a request to enforce the Blue Laws against Sams. In addition, Sams has reverted to a 1:30 p.m. Sunday opening time, to conform with the Blue Laws pending an answer to your inquiry.

This Office has for many years taken the position that the enforcement of the Blue Laws is primarily a local responsibility. We are aware that enforcement has differed from jurisdiction to jurisdiction in the past. The General Assembly may have recognized that inconsistency by enacting Section 53-1-6 in 1985, which states that a sheriff or other law enforcement officer determined to have failed to enforce the Blue Laws to the best of his ability is guilty of neglect of duty and misconduct.

Your letter was silent about the details of the membership requirements at Sams, but my general understanding from employees here who are members is that an annual

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fee of \$25.00 is required. Members may take an adult guest, but the guest may only purchase using cash or a Discovery credit card. Members may take their children.

The Blue Laws in South Carolina remained essentially unchanged from the 17th Century, until the early 1980's, when substantial revisions were made in 1983 and 1985. However, the general prohibition against Sunday work found at S.C. Code Ann. §53-1-40 still exists:

On the first day of the week, commonly called Sunday, it shall be unlawful for any person to engage in worldly work, labor, business of his ordinary calling or the selling or offering to sell, publicly or privately or by telephone, at retail or at wholesale to the consumer any goods, wares or merchandise or to employ others to engage in work, labor, business or selling or offering to sell any goods, wares or merchandise, excepting work of necessity or charity . . . [emphasis added.]

Section 53-1-50 contains exceptions to the above, and Section 53-1-60 specifically prohibits the sale of certain items. That last section provides that "No inference shall arise from the foregoing enumeration that either the sale or the offering for sale on Sunday of items or articles not mentioned is permitted." On April 9, 1992, this Office advised Lexington County Sheriff James R. Metts that that final phrase meant if a sale or operation was not specifically excepted or authorized, such as pursuant to Section 53-1-50 or any other statute authorizing an exception, it would not be permitted on Sunday.

In 1985 the General Assembly passed Section 53-1-5, which states the provisions of the Blue Laws Chapter do not apply after 1:30 p.m. on Sunday. Therefore, the General Assembly has apparently concluded that all of the provisions of the Blue Laws are to apply from midnight Saturday night until 1:30 p.m. on Sunday. However, even this provision has an exception. Section 53-1-150, also enacted in 1985, provides that counties which collect more than \$900,000 in accommodations taxes, found at S.C. Code Ann. §12-35-710, are exempt from the Blue Laws.

Despite these changes in 1983 and 1985, the General Assembly chose to leave Section 53-1-40 essentially unchanged. Note the emphasized language above which prohibits public or private sales. The plain language of this provision would seem to apply to a store such as Sams, with its private membership requirements described above.

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To conclude then, it would appear that the General Assembly has elected not to amend or otherwise provide for any exception in the Blue Laws that would allow a private shopping club such as Sams to be exempt from the Blue Laws. Of course, Sams may open prior to 1:30, but if it does, it must comply with the provisions of Sections 53-1-50 and 53-1-60, selling only those items excepted by the former, and not selling those items prohibited by the latter.

This letter is an informal opinion only. It has been written by a designated Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

Should you have questions or desire further information, please do not hesitate to contact this Office.

Very truly yours,



Zeb C. Williams, III
Deputy Attorney General

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