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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

January 24, 2001

The Honorable J. Gresham Barrett
Member, House of Representatives
125 Stonewall Drive
Westminster, South Carolina 29693

RE: Informal Opinion

Dear Representative Barrett:

By your letter of January 23, 2001, you have requested an opinion of this Office concerning a constituent's use of farm truck licenses on vehicles used for his poultry operations. By way of background, we are informed of the following information:

Alexander Farms is engaged in the contract growing of poultry and the production of natural mulches and soil mixes, using wastes from the poultry operation, as an additive for these products. We also engage in the purchase of bedding products, being sawdust and waste bark, for our own use at our facility and for distribution to other farms like ours. In 1997, when we began this operation, we discussed at length with the local SCDOT tag office and several of SCHP about our qualifications for farm tag use. Thus, all trucks since then have been licensed with farm tags.

You now ask whether the constituent's use of the trucks for the above purposes falls within the requirements for a farm truck license issued pursuant to South Carolina Code Section 56-3-670.

Section 56-3-670, which mandates the fees for farm truck licenses issued in South Carolina, states in part:

(A) For the purpose of this section "farm truck" is defined as a truck used exclusively by the owner for agricultural, horticultural, and dairying operations or livestock and poultry raising. However, farm trucks with an empty weight of less than 7,500 pounds may be used for ordinary domestic purposes and general transportation but must not be used to transport persons or property for hire.

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(C) A person who is issued a farm license plate for the purpose defined in this section and uses the license plate for purposes other than those defined is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days, or both.

The definition offered in the statute indicates which activities are permissible uses of the vehicle to qualify for the farm truck license. A truck must be used "exclusively" for "agricultural, horticultural, and dairying operations or livestock and poultry raising."

The American Heritage College Dictionary (3rd Ed. 1993) defines "agricultural," the adjective form of "agriculture" as "the science, art, and business of farming." Id. at 27. Similarly, "horticultural," as a form of "horticulture," is "the science or art of cultivating fruits, vegetables, flowers, or ornamental plants." Id. at 656.

Clearly, the use of the trucks for the transport of poultry and soil additives would fall within the reach of the statute. A closer question may be presented as the use of the vehicle moves further away from the traditional activities associated with livestock and poultry raising or agricultural or horticultural uses. At first glance, the transport of sawdust and bark to your constituent's farm and others may not seem as obvious as the transport of chickens or fruits, for example. But sawdust, bought and used for the purpose of providing litter and bedding for the poultry, is a necessary part of the process of raising poultry. See generally Lipman Poultry Co. v. Johnson, 138 A.2d 631 (Maine 1958). In an informal opinion of this Office dated November 24, 1987, we advised that trucks used to transport timber from the forest to the sawmill would not be entitled to use farm truck license plates. We distinguished that opinion, however, from the situation in which transporting timber was incidental to another valid agricultural operation, stating:

While some farmers may engage in timber operations and thus might be entitled to use of the special farm truck license as part of their overall agricultural operation, it is doubtful that one engaged in timber operations not incidental to other agricultural operations would qualify as a farmer entitled to use the special license.

Id.

This reasoning is applicable to your constituent's circumstances. If the person uses his truck solely for the business of transporting sawdust and bark to others' farms, then his use is probably too far removed from agricultural or poultry raising operations to qualify for the farm truck tag. If, on the other hand, the person's transport of sawdust to himself and others is only one part of his larger overall operation, then it is our opinion that the statute would permit this kind of incidental use as part of "agricultural" operations or "poultry raising."

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As a final note, we would also give great deference to the agency interpretation of the statute. If, according to what you have told us, the Department of Public Safety has determined that this use of the trucks is permissible under Section 56-3-670, then we are inclined to defer to their decision. Of course, absent clarification by the General Assembly, only a court could make all necessary factual determinations and resolve this question with finality.

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

With kind regards, I remain

Very truly yours,



Susannah Cole
Assistant Attorney General