

The State of South Carolina

482 Library



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE: 803-734-3970
FACSIMILE: 803-253-6283

July 23, 1990

Mr. Michael L. Harlan
Director of Parks and Recreation
Richland County Recreation Commission
5819 Shakespeare Road
Columbia, South Carolina 29223

Dear Mr. Harlan:

By your letter of July 5, 1990, on behalf of the Richland County Recreation Commission, you have requested the opinion of this Office on the following question:

Does the Indoor Clean Air Act of 1990 (R-600) apply to Special Purpose Districts such as the Recreation District of Richland County?

The Clean Indoor Air Act of 1990 was adopted by the General Assembly, as Act No. 503, to be effective "on the first day of the third month following approval by the Governor," or August 1, 1990, the act having been signed by the Governor on May 30, 1990. Section 2 of the Act describes areas where smoking is prohibited, with certain exceptions. Section 3 requires that signs designating smoking and non-smoking areas be conspicuously posted. A reasonable effort to separate smoking and non-smoking areas is required by section 4. A criminal penalty for violation of the act, upon conviction, is specified in section 5. Section 6 provides that no person in this State is authorized to require that an individual undergo testing to determine whether the person has nicotine or other tobacco residue in his body.

Of concern to special purpose districts such as the Richland County Recreation Commission would be the following language in

Mr. Harlan
Page 2
July 23, 1990

section 2 of the Act:

It is unlawful for any person to smoke, or possess lighted smoking material in any form in the following public indoor areas except where a smoking area is designated as provided for herein:

....

(3) Government buildings (except health care facilities as provided for herein), except that smoking shall be allowed in enclosed private offices and designated areas of employee break areas; ...

"Government buildings" shall mean buildings or portions thereof which are leased or operated under the control of the State or any of its political subdivisions, except those buildings or portions thereof which are leased to other organizations or corporations.

(4) Elevators

Thus, the Clean Indoor Air Act of 1990 would prohibit smoking or possessing lighted smoking material in any form in government buildings, with the noted exceptions, if such building is "leased or operated under the control of the State or any of its political subdivisions."

Clearly the Richland County Recreation Commission is not "the State." If, however, it is a political subdivision of the State, then the Act applies to buildings (and elevators) owned by or under the control of the Commission. An opinion of this Office dated May 21, 1987, examined the legislation which established the Commission (formerly called the Rural Recreational District of Richland County) and noted that section 3 of Act No. 873, 1960 Acts and Joint Resolutions, declared the district to be a political subdivision; therein, we advised that the district would be a political subdivision of the State rather than of Richland County. It therefore appears that the prohibitions and requirements of the Clean Indoor Air Act of 1990 would apply to buildings and elevators owned by or under the control of the Richland County Recreation Commission, with exceptions as noted in the Act.

Mr. Harlan
Page 3
July 23, 1990

With kindest regards, I am

Sincerely,

Patricia D. Petway
Patricia D. Petway
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions