

1979 WL 43588 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 13, 1979

**\*1 Re: Problems Relative to Transient Pilots Receiving Service and Gasoline Without Payment**

Mr. John W. Hamilton  
Executive Director  
S. C. Aeronautics Commission  
P. O. Box 1769  
Columbia, South Carolina 29202

Dear Mr. Hamilton:

You have referred an inquiry from County Administrator Zumwalt of Beaufort County, concerning the problem as to transient pilots obtaining service and gasoline at South Carolina airports and then taking off without payment for said gasoline or services. We have no specific State statute which covers the taking of gasoline without payment at an airport, but I believe that the existing statutes and common law proscribe such conduct.

If the value of the gasoline or services is greater than \$50.00, the taking of such gasoline or services without payment would constitute intent to permanently deprive the owner of payment and would amount to common law grand larceny, punishable by incarceration of up to ten years.

If the gasoline or services have a value of less than \$50.00, [Section 16-13-30 of the 1976 Code](#) would define such conduct as petty larceny, punishable as a misdemeanor with a fine of \$200.00, or thirty days incarceration.

Other sections of the Code would cover certain types of activities. [Section 16-13-160 of the 1976 Code](#) proscribes the breaking or attempting to break into any tank, pump, or other vessel containing gasoline or lubricating oil with the intent to steal such product. The penalty under this statute is five years incarceration or a fine of \$1,000.00, or both, in the discretion of the trial judge. [Section 16-13-190 of the 1976 Code](#) prohibits the larceny of any wheel or tire or tube from from any automobile, truck, airplane or other motor driven vehicle with a penalty of no more than ten years imprisonment, in the discretion of the trial judge.

Finally, [Sections 16-13-240 and 16-13-260 of the 1976 Code](#) proscribe the obtaining of goods by false pretense and obtaining of goods by false tokens, respectively. These section, in effect, prohibit using any false pretense or representation to improperly obtain money, goods, or services. These sections would also apply to situations where a transient aircraft pilot obtained gasoline or other services without payment, assuming that he made some pretense or furnished false tokens in the first instance to obtain the gasoline.

The real problem in this situation is probably caused by fixed base operators not requiring payment before pumping gasoline into out of state aircraft. We could probably have some control over the situation with aircraft registered in the State of South Carolina, but I would sincerely recommend legislation to be sponsored by the Aeronautics Commission in the next Session of the General Assembly to specify that the obtaining of gasoline or other services at airports in this State, without payment, would constitute a criminal offense, punishable by a substantial penalty or fine. If the offense constitutes a felony, we could always initiate extradition, on fugitive warrants. Also, I believe the fixed base operators would be well advised to require advanced payment in the form of cash, or signed credit cards, before furnishing gasoline to transient pilots who are obviously operating aircraft not registered in the State of South Carolina. The interim solution

would probably be some form of county ordinance as suggested by Mr. Zumwalt in his letter. I would have no objection to an ordinance similar to that protecting hotel and motel owners. One other alternative for fixed base operators would be to post placards in conspicuous places, warning pilots who obtain gasoline that failure to make payment therefor would constitute larceny, or obtaining goods under false pretences, punishable under the aforesaid criminal provisions. This would be similar to the armed robbery placards in many restaurants and could possibly be printed as a public service by the Commission, or perhaps by individual counties.

\*2 If this is a substantial problem, however, I would recommend that the Aeronautics Commission, itself, seek additional legislation in the next Session of the General Assembly. I hope that this letter has been of some assistance in this matter.

Yours very truly,

Victor S. Evans  
Deputy Attorney General

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