

1978 WL 35119 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 20, 1978

*1 Col. George P. Pechilis
South Carolina Auctioneer's Commission
915 Main Street
Columbia, South Carolina 29201

Dear Col. Pechilis:

You have requested an opinion as to the interpretation of the following statute which exempts certain auctioneer license applicants from the apprenticeship requirement:

Any person who has successfully completed the equivalent of at least eighty hours of classroom instruction in auctioneering at an institution approved by the Commission may be licensed as an auctioneer without holding an apprentice license and serving as an apprentice for two years. [§ 40-6-80, S.C. CODE](#), 1976. (Emphasis Added)

If is our opinion that this statutory provision applies only to an equivalency as to some sort of institutional instruction. It does not permit the Commission to determine that some amount of experience outside an educational program constitutes an 'equivalency.'

There are two reasons for this opinion. First, if the Commission were to adopt a regulation recognizing a certain amount of experience to be the equivalent of the necessary classroom instruction, then this would in effect be a 'grandfather' provision for licensing those individuals who were auctioneers prior to the enactment of the licensing statute. But the statute already contains a 'grandfather' clause in [§ 40-6-80, S.C. CODE](#), 1976, by the terms of which all such 'grandfather' licenses must have been issued by July 1, 1977.

After making an explicit expiration date for the 'grandfather' provision, it is not reasonable to assume that the legislature intended to permit the Commission to adopt a new 'grandfather' provision under the authority of the 'equivalency' provision. It seems clear that the 'equivalency' provision of the statute permits the Commission only to determine how much instruction at an educational institution is equivalent to at least eighty hours of classroom instruction. This would permit the Commission, for instance, to recognize two hours of bid calling under the supervision of an instructor as the equivalent of two hours of classroom instruction.

The second reason for this opinion is that [§ 40-6-80, S.C. CODE](#), 1976, provides that if an applicant for a license is exempted from the apprenticeship requirement under the 'equivalency' provision of the statute, then '. . . the application shall contain a transcript of his course work in auctioneering.' This Code section clearly contemplates that the 'equivalency' provision relates only to institutional instruction that would be represented on a transcript of course work. If the Commission were to adopt an experience 'equivalency' there would be no transcript to represent course work.

For these reasons it seems clear that the legislature did not intend to permit the Commission to adopt a regulation recognizing a certain amount of experience as a sufficient prerequisite for a license without the necessary apprenticeship or classroom instruction. Any change from these licensing requirements must be made by an amendment to the auctioneers licensing statute.

Sincerely yours,

*2 David C. Eckstrom
Staff Attorney

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