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South Carolina House of Representatives

# Legislative Update & Research Reports

Ramon Schwartz, Jr., Speaker of the House

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## Legislative Update

### Candidates for Judge of Family Court

This information is reprinted from the January 24, 1984 issue of Update & Research Reports at the request of several members of the House.

There are two contested races to fill unexpired terms of Family Court Judges: Seat #2 of the Fifth Judicial Circuit Family Court and Seat #2 of the Third Judicial Circuit Family Court. Both seats have terms which will expire on March 1, 1985.

The election will be held at 12:00 noon on February 1, 1984.

Five candidates are seeking to fill the Fifth Circuit seat; two candidates are seeking the Third Circuit position. The Joint Judicial Screening Committee recently completed hearings on the qualifications of the candidates, and the report on their work is found in the House Journal, Number 1.

The following list gives the candidates' names and residence, and notes the page in the Journal where account of their appearance before the Committee begins. A brief statement of the backgrounds of the candidates appears on pages 226 and 227 of the Journal. Findings of fact are on pages 291 through 293.

### Fifth Judicial Circuit Family Court Seat #2

Ruby E. Brice  
Columbia, S.C.  
Page 247

Alice C. Broadwater  
Columbia, S.C.  
Page 252

Carol Conner  
Columbia, S.C.  
Page 257

W. Rhett Eleazer  
Columbia, S.C.  
Page 262

Daniel Fulton  
Columbia, S.C.  
Page 266

Third Judicial Circuit Family Court  
Seat #2

Marion D. Myers  
Sumter, S.C.  
Page 280

Julien Weinberg  
Manning, S.C.  
Page 286

Candidates for Citadel Board of Visitors

On February 15, 1984, the Legislature will elect two members of the Board of Visitors to the Citadel. There are three candidates for the positions:

Leonard C. Fulghum, President of Ferguson-Fulghum, Inc., a paint company. He lives in Mount Pleasant. Mr. Fulghum has served on the Board of Visitors as a representative of the Citadel Alumni.

William C. Mills, a Security Investments Consultant, lives in Charleston. Mr. Mills has no previous service on the Board of Visitors.

Charles L. "Buddy" Terry, a Life Insurance Agent, lives in Columbia. He is currently a member of the Board of Visitors.

Medical, Military, Public & Municipal Affairs

State Fire Commission (H. 3104)  
Second reading, uncontested

This bill would amend Act 190 of 1979. It would give the State Fire Commission the sole authority to promulgate fire prevention and protection regulations, based on nationally recognized standards. The Commission would not be allowed to publish regulations for manufactured housing, which is covered by Chapter 17, Title 31 of the 1976 code. In addition, persons who are certified by the State Fire Marshal could exercise the powers and duties of that office. Another change would authorize the State Fire Commission to set "standards," instead of the present "minimum standards."

# Blue Laws

## Background

Blue Laws limit, to a greater or lesser extent, commercial and or recreational activities on Sunday. They have a long history, dating back to the book of "Exodus" in the Bible. The Roman Emperor Constantine I issued the first civil law setting a specific day aside for rest.

Under English law Sundays were reserved for rest and worship. The early colonists in America followed this tradition, some, such as the New England settlers, with even greater rigor than in England. Even today the eastern states--those settled first--have stricter Blue Laws than states farther west. The first Sunday law in the American colonies was passed in Virginia in 1610. The penalties imposed were rather harsh: for a first offense, loss of provisions for one week; second offense, a whipping and loss of provisions for a week; third offense--death.

In South Carolina the first statute regarding work on Sunday appeared in 1691. In 1712 a second statute was issued; this law remained the essential base of South Carolina Blue Laws into the 1980s.

## Why Blue Laws?

There are two reasons most often given for supporting Blue Laws.

The Religious argument is that a day of rest is specifically required by the Lord. Early Blue Laws were frankly designed to provide civil enforcement of the Sabbath--for example, the 1692 Massachusetts Bay law was entitled "An Act for the Better Observation and Keeping of the Lord's Day."

Because of the Constitutional separation of church and state, however, framers of Blue Laws have increasingly refrained from overtly stating religious reasons or justifications for the laws. Still, a number of persons openly support Blue Laws for strictly religious reasons.

Secular reasons for Blue Laws generally revolve around the duty of the State to insure citizens have a uniform day of rest, recreation and family togetherness. This is a key test when Blue Laws are challenged in court.

A second decisive test is whether the laws had the intention or effect of furthering a religious objective.

In the case of State v. Solomon (1965) the South Carolina Supreme Court held that the State's Blue Laws met both of these requirements. In 1961 the United States Supreme Court made a similar ruling in the case of McGowan v. Maryland. In both cases the reason for the laws was to "provide a uniform day of rest for all citizens."

What do blue laws do?

Basically, Blue Laws limit activities on Sunday in four broad areas:

- o Labor--who can and can't work, and how long
- o Retail Sales--what can and can't be sold, and by whom
- o Sports--what games can and can't be played, and if you can charge admission
- o Amusements--what fun you can and cannot engage in

The specific limitations vary from state to state; table 1 gives a summary of the types of Blue Laws and the number of states which have them.

Table 1

<u>Blue Law</u>	<u>Number of States</u>
Alcohol sales (total ban)	15
Banks	4
Barbering	11
Beauty shops	3
Billiard rooms	2
Bingo	3
Bowling	3
Boxing and wrestling	14
Card playing	2
Cock fighting	2
Dancing/public entertainment	5
Digging oysters or clams	2
Gaming	3
General labor/work	18
Horse racing	9
Hunting	11
Motion pictures	2
Motor vehicle sales	8
Moving large vehicles on public highways	2
Parades	1
Pawnbrokers	4
Polo	1
Raffles	1
Retail sales	19
Sale of fresh meat	1
Serving civil process	3
Sports	4
Tobacco warehouse sales	1

SOURCE: "Legislative Research"

The crazy-quilt pattern of Blue Laws is strikingly evident from this list. There are mysterious distinctions made between barber shops and beauty shops, for example. Some popular recreational activities such as bowling and movies, are banned along with more limited pastimes as polo and cockfighting. Still, three major prohibitions emerge: alcohol, retail sales, and work.

Banning the sale of alcohol on Sunday stems from a basically religious motive: Sunday is the Lord's day and should not be profaned by people getting drunk.

Restricting retail sales and general labor have the purpose of providing a uniform day of rest for citizens. The reasoning is that if stores are open, clerks will have to work, people will be inclined to shop, and Sunday will end up being just like any other day of the week, instead of being set aside for "rest, recreation and family togetherness."

Penalties for violating Blue Laws also vary widely. Since there are so many Blue Laws, many people violate them unknowingly. In addition, customs and conventions have changed since many Blue Laws were enacted: in South Carolina, for example, it was technically illegal to have sporting events for profit or conduct funerals on Sunday until 1983. Although against the letter of the law, football and funerals went on.

Law enforcement officials generally use a community consensus in enforcing Blue Laws. Certain restrictions, for example on alcohol, are more strictly enforced. A survey of Blue Law enforcement nationwide found that citizen complaints were the major prod to action.

#### What are the alternatives?

For those who take the view that Sunday is a day of rest specifically ordained by divine command, there is no alternative. This is the traditional view, established as far back as the middle ages, and reinforced by laws enacted into the 18th century. This view is not as widely held these days, but it still commands considerable obedience.

For those who feel that the state should insure the oft-quoted "uniform day of rest, recreation and family togetherness," there are several options.

o Total repeal of Blue Laws: South Carolina has had Blue Laws for almost three hundred years; it is somewhat unlikely that the laws will be totally repealed in the near future. If nothing else, total repeal would lead to some confusion.

A point often mentioned by observers is this: if there is total repeal, what would prevent employers from requiring employees to work on Sundays? Many people feel there must be protection for persons who want to keep Sunday special, either for family, church, or both.

o Easing restrictions: Last session the General Assembly eased the Blue Laws in South Carolina, expanding the list of items which could be sold on Sunday, allowing more than three employees in business establishments, and taking various other measures.

Supporters of less stringent Blue Laws nationally have often run into the argument mentioned above: if people are allowed to work on Sunday, employers might require they work on Sundays.

To avoid this problem, some have suggested "One day of rest in seven" laws--laws that would insure employees have one day off from work. The Supreme Court has ruled that these laws do not adequately fulfill the uniform day of rest and family togetherness requirement. The Court reasoned that, for example, a father may not get Sunday off, but perhaps Monday or Wednesday--when his wife might be at work, and his children in school. There was no guarantee the family would be together.

The solution that has been proposed is to allow the family to abstain from work on their chosen "sabbath." Since it is more likely than not that the husband, wife and children would be of the same or complementary faiths, they would all be together on the day they chose.

As for items which can be sold in stores the trend nationally has been towards more liberalization. A frequent argument in favor of this is the additional boost given the economy.

o Making Blue Laws more uniform. As noted above, states forbid a number of different things on Sunday. One remedy which has been suggested is to replace individual items with general categories.

o Allow local option on Blue Laws. Counties or municipalities could be granted the right to enact their own legislation concerning Sunday activities. This is a variation on the practice that allows counties in North Carolina or Kentucky, for example, to be "wet" or "dry." It would give more expression to the wishes of the local community. However, it could set up situations where adjacent counties enacted very different Blue Laws, one county being strict and the other county being loose. The more liberal county could draw considerable Sunday business from its neighbor.

o Provide for a statewide referendum on Blue Laws. Citizens could be polled for their opinions on Blue Law action. This seems an attractive idea at first, but has two major flaws. First, there are a number of possible actions (repeal, reform, types of reform, etc.) which would be difficult to state concisely on a ballot. Second, there are persuasive arguments that the General Assembly, as representatives of the people, has the duty to make such decisions.

Conclusion

Blue Laws have been with us for a long time, and will likely remain with us for at least a little longer. There are both religious and secular arguments for and against Blue Laws, which make the issue difficult politically, complicated emotionally, and tangled considerably. As Abraham Lincoln once remarked, "The question is hard, and good men disagree."

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