

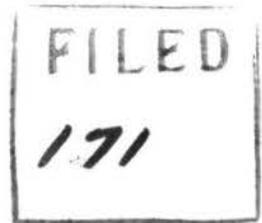
CRIMINAL LAW:  
SUNDAY SALES:

A not-for-profit civic club which operates a gift shop manned by unpaid volunteer workers selling goods, wares, and merchandise prohibited from sale on Sunday under Section 563.721, RSMo, is not exempt from the provisions of this statute even though the profits are contributed to charity.

OPINION NO. 171

June 4, 1973

Honorable David Q. Reed  
Representative, District 29  
Room 103B, Capitol Building  
Jefferson City, Missouri 65101



Dear Representative Reed:

This is in response to your request for an opinion from this office as follows:

"Is it legal for a not-for-profit civic club to operate a gift shop which is manned by unpaid volunteers on Sunday if all of the profits of the gift shop are contributed to charity? (Whether or not they occur on Sunday).

"Not for profit civic club operates a gift shop selling merchandise to general public. Shop is exclusively staffed by unpaid volunteers.

"All profits of shop are given to charity.

"Club desires to operate shop on Sunday."

We assume the goods, wares, and merchandise offered for sale are prohibited from being sold on Sunday under Section 563.721, RSMo, and your question is whether a not-for-profit civic club operated by volunteer workers is exempt under the provisions of said statute when all the profits are given to charity.

Section 563.721, RSMo, provides as follows:

"1. Whoever engages on Sunday in the business of selling or sells or offers for sale on such day, at retail, motor vehicles; clothing and wearing apparel; clothing accessories; furniture; housewares; home, business or office

Honorable David Q. Reed

furnishings; household, business or office appliances; hardware; tools; paints; building and lumber supply materials; jewelry; silverware; watches; clocks; luggage; musical instruments and recordings or toys; excluding novelties and souvenirs; is guilty of a misdemeanor and shall upon conviction for the first offense be sentenced to pay a fine of not exceeding one hundred dollars, and for the second or any subsequent offense be sentenced to pay a fine of not exceeding two hundred dollars or undergo confinement not exceeding thirty days in the county jail in default thereof.

"2. Each separate sale or offer to sell shall constitute a separate offense.

"3. Information charging violations of this section shall be brought within five days after the commission of the alleged offense and not thereafter.

"4. The operation of any place of business where any goods, wares or merchandise are sold or exposed for sale in violation of this section is hereby declared to be a public and common nuisance."

We are unable to find any provision of law which exempts a not-for-profit civic club, or those persons volunteering their services to such a club, from the provisions of the above statute even though the profits derived from the operation are given to charity.

#### CONCLUSION

It is the opinion of this office that a not-for-profit civic club which operates a gift shop manned by unpaid volunteer workers selling goods, wares, and merchandise prohibited from sale on Sunday under Section 563.721, RSMo, is not exempt from the provisions of this statute even though the profits are contributed to charity.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Moody Mansur.

Yours very truly,



JOHN C. DANFORTH  
Attorney General