

SUBJECT: WILDLIFE DEPARTMENT EMPLOYEES ACCEPTING HUNTING AND FISHING INVITATIONS

SUMMARY:

Officials or employees of the Wildlife Department are not prohibited from accepting hunting and/or fishing invitations unless given to influence. When such invitations are from noncommercial sources, the official or employee should disclose the nature of the invitation rather than attempting to place a valuation on the activity.

QUESTION:

The Deputy Chief Counsel of the Wildlife and Marine Resources Department questions:

- (1) May an employee of the Wildlife Department accept a hunting, fishing, or boating trip or other items of value from a person who engages in hunting, fishing, or boating; provided that the providing of this activity is not calculated to influence the official conduct of the employee?
- (2) Does it matter whether the employee in question is one who under Section 8-13-1110 is required to disclose his financial holdings? (section 8-33-710 (B) appears to authorize such activity for employees who report under Section 8-13-110 so long as the acceptance of a thing of value is reported if over \$25.00 per day or \$200.00 per year.)
- (3) Does it matter whether the provider is a principal of a commercial shooting preserve (permitted by the Department) or is the proprietor of a private shooting preserve (a facility for the sole use of the owner or members not open to the public, not operated for profit, but permitted by the Department)?

DISCUSSION:

This opinion is rendered in response to a letter dated January 23, 1992 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

Section 8-13-705 provides:

- (A) A person may not, directly or indirectly, give, offer, or promise anything of value to a public official, public member, or public employee with the intent to:
- (1) influence the discharge of a public official's, public member's, or public employee's official responsibilities;

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- (2) influence a public official, public member, or public employee to commit, aid in committing, collude in, or allow fraud on a governmental entity; or
 - (3) induce a public official, public member, or public employee to perform or fail to perform an act in violation of the public official's, public member's, or public employee's official responsibilities.

(B) A public official, public member, or public employee may not, directly or indirectly, knowingly ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value for himself or for another person in return for being:

- (1) influenced in the discharge of his official responsibilities;
- (2) influenced to commit, aid in committing, collude in, allow fraud, or make an opportunity for the commission of fraud on a governmental entity; or
- (3) induced to perform or fail to perform an act in violation of his official responsibilities.

Employees of the Wildlife Department would not be prohibited from accepting invitations to hunt and/or fish except when such invitations are intended to influence. Absent such intent to influence, the State Ethics Commission does not believe that such invitations to hunt and/or fish are prohibited.

Those employees and/or officials of the Department who are required to file a Statement of Economic Interests are reminded of the provisions of Section 8-13-710 (A) and (B) which provide:

(A) Unless provided by subsection (B) and in addition to the requirements of Chapter 17 of Title 2, a public official or public employee required to file a statement of economic interests under Section 8-13-1110 who accepts anything of value from a lobbyist's principal must report the value of anything received on his statement of economic interests pursuant to Section 8-13-1120(a)(9).

(B) A public official, public member, or public employee required to file a statement of economic

interests under Section 8-13-1110 who receives, accepts, or takes, directly or indirectly, from a person, anything of value worth twenty-five dollars or more in a day and anything of value worth two hundred dollars or more in the aggregate in a calendar year must report on his statement of economic interests pursuant to Section 8-13-1120 the thing of value from:

- (1) a person, if there is reason to believe the donor would not give the thing of value but for the public official's, public member's, or public employee's office or position;
- (2) a person, or from an officer or director of a person, if the public official, public member, or public employee has reason to believe the person:
 - (a) has or is seeking to obtain contractual or other business or financial relationships with the public official's, public member's, or public employee's governmental entity.
 - (b) conducts operations or activities which are regulated by the public official's, public member's or public employee's governmental entity.

If the invitation is from a commercial source which charges a fee or where lodging and/or meals are provided, such valuation of those items is to be disclosed on the Statement of Economic Interests. Where the invitation involves a noncommercial source, such as a farm pond or invitation to hunt on private property, the source of the invitation should be disclosed without attempting to disclose a

valuation of such invitation.