

The State of South Carolina



Office of the Attorney General

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November 3, 1989

The Honorable Candy Y. Waites
Member, House of Representatives
818 Gregg Street
Columbia, South Carolina 29201

Dear Representative Waites:

In a letter to this Office you questioned whether owners or employees of a bar are authorized to confiscate illegal or questionable I.D.'s from underaged drinkers.

Various provisions of the State Code deal with unlawful actions with regard to identification cards. Section 56-1-510 of the Code provides a criminal offense:

- (1) to display or cause or permit to be displayed or have in his possession any cancelled, revoked, suspended, or fraudulently altered driver's license or personal identification card;
- (2) to lend his driver's or personal identification card to any other person or knowingly permit the use of it by another;
- (3) to display or represent as one's own driver's license or personal identification card any driver's license acquired in violation of this section;
- (4) to fail or refuse to surrender to the Department upon lawful demand any driver's license which has been suspended, cancelled, or revoked;
- (5) to use a false or fictitious name in any application for a driver's license or personal identification card or knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application;

The Honorable Candy Y. Waites

Page 2

November 3, 1989

- (6) to permit any unlawful use of a driver's license or personal identification card issued to him; or
- (7) to do any act forbidden or fail to perform any act required by this article.

As referenced, such provision in subsection (4) refers to the surrender to the Highway Department upon demand of a suspended, cancelled or revoked driver's license.

Section 56-1-515 of the Code provides that

(1) It is unlawful for any person to alter a motor vehicle driver's license so as to provide false information on the license or to sell or issue a fictitious driver's license.

(2) It is unlawful for any person to use a motor vehicle driver's license not issued to the person, an altered motor vehicle driver's license, an identification card containing false information, or an identification card not issued to the person to defraud another or violate the law.

Pursuant to Section 16-13-450 of the Code

It is unlawful for any person to sell or issue, or to offer to sell or issue, in this State any identification card or document purporting to contain the age or date of birth of the person in whose name it was issued unless:

- (a) Prior to selling or issuing an identification card or document, the person has first obtained from the applicant and retains for a period of three years from the date of sale:
 - 1. an authenticated or certified copy of proof of age as provided in subsection (2) of this section;
 - 2. a notarized affidavit from the applicant attesting to the applicant's age and that the evidence of age required by subitem 1 of item (a) of this subsection is for the applicant.
- (b) Prior to offering to sell identification cards in this State, the person has included

The Honorable Candy Y. Waites
Page 3
November 3, 1989

in any offer for sale of identification cards or documents that the cards or documents may not be sold without the applicant first submitting the documents required by item (a) of this section.

- (c) The identification card or document contains the business name and street address of the person selling or issuing the identification card or document.

Such provisions further provides for acceptable evidences of age.

Section 61-9-50 of the Code makes it illegal for an individual to whom beer and wine cannot be sold to knowingly provide false information as to his age so as to purchase beer and wine. Section 20-7-380 of the Code sets forth a similar prohibition as to alcoholic liquors.

I am unaware of any provision specifically providing for the authority of owners or employees of bars or other establishments licensed to sell alcoholic beverages to confiscate illegal or questionable I.D.'s from under aged drinkers. Therefore, in the absence of any authority to act in such manner, these owners and employees should not attempt to confiscate illegal or questionable I.D.'s. Instead, instances of misuse of I.D.'s should be referred to the appropriate authorities.

If there is anything further, please advise.

Sincerely,



Charles H. Richardson
Assistant Attorney General

CHR/nnw

REVIEWED AND APPROVED BY:



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