

The State of South Carolina

February

1539



Office of the Attorney General

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April 10, 1985

Honorable Victor S. Evans
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RE: Transportation of open liquor bottles in
Station Wagons and similar type vehicles
that do not have a locked trunk

Dear Vic:

You have asked the opinion of this Office whether liquor or beer and wine in an unsealed container may be transported in a station wagon or similar type vehicle, that contains no trunk or luggage department segregated from the passenger compartment of the vehicle. We believe that South Carolina law permits transportation of unsealed containers of liquor or beer and wine in the luggage area behind the last seat of such vehicle, whether or not this area is accessible to the passenger compartment.

Section 61-5-20(1), Code of Laws of South Carolina, 1976, generally proscribes transportation in a vehicle of alcoholic liquors wherein the cap or the seal on the liquor container is open or broken; provided that open containers of liquor may be transported in a vehicle in the "luggage compartment or cargo area" of the vehicle. While the terms "luggage compartment or cargo area" were not statutorily defined when the General Assembly passed the sale and consumption law in 1972 [this provision is a part of that act], the Alcoholic Beverage Control Commission, the executive agency charged with the enforcement of the sale and consumption law, contemporaneously promulgated a regulation defining "luggage compartment" as that phrase is used in § 61-5-20(1). With regard to station wagons the regulation is explicit:

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In regard to a station wagon, the term "luggage compartment" shall refer to the area behind the last seat.

R.7-1D Rules and Regulations of the Alcoholic Beverage Control Commission. This regulation interprets § 61-5-20(1); however, since the regulation was duly promulgated pursuant to § 61-3-70 it becomes an integral part of the Alcoholic Beverage Control Act and has the full force and effect of law. Faile v. S.C. Employment Security Comm., 267 S.C. 536, 230 S.E.2d 219 (1976). Thus, while the regulation is interpretative in its scope, it is a binding provision which must be deemed controlling with regard to the transportation of liquor. Accordingly, we conclude that open containers of liquor may be transported in the cargo area behind the last seat of a station wagon.^{1/}

Beer and wine is regulated separately from alcoholic liquors in South Carolina, and thus the laws pertaining to liquor regulations are not uniformly applicable to the laws pertaining to the regulation of beer and wine. See, § 61-3-20(1)(b). Section 61-9-87 of the South Carolina Code of Laws (1984 Cum.Supp.) generally proscribes possession of beer and wine in an open container in a moving vehicle; provided that the provision expressly permits the transportation of open containers of beer and wine in the "luggage compartment" of a moving vehicle. For the reasons identified hereafter, we believe that the definition of "luggage compartment" found in R.7-1D of the Rules and Regulations of the Alcoholic Beverage Control Commission is applicable to this provision as well as to § 61-5-20(1).

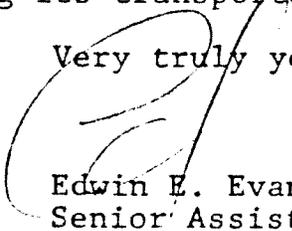
The similarity of the language used by the General Assembly in § 61-5-20(1) and § 61-9-87, particularly the phrase "luggage compartment" must be given significance, since it surely was not happenstance that the General

^{1/} I note here that even if R.7-1D is not viewed as a binding regulation having the force of law, it is a reasonable interpretation of longstanding application of § 61-5-20(1) by the agency charged with the enforcement of that statutory provision. Thus, the interpretation is entitled to great respect by the courts. Faile, id. Therefore, regardless of whether this regulation is viewed as an interpretative regulation or a legislative regulation the conclusion regarding the transportation of open containers of liquor is unaffected.

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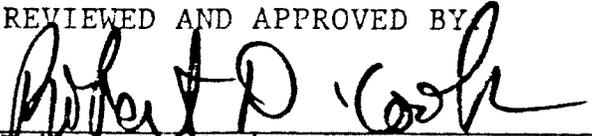
Assembly chose to use the exact language. The regulatory definition of "luggage compartment" had been operative in the liquor laws for several years without interruption and this technical meaning was known to the General Assembly when they chose these exact terms for usage in § 61-9-87. When a statute uses a phrase with a well recognized meaning at law, the statutory presumption is that the Legislature intended to use the words in that sense. Coakley v. Tidewater Construction Corp., 194 S.C. 284, 9 S.E.2d 724 (1940). Similarly, as here, the General Assembly is presumed to have been familiar with the law on the related subject of liquor regulation in moving vehicles when it enacted § 61-9-87 concerning beer regulation in moving vehicles in 1984. Bell v. S.C. State Highway Dept., 204 S.C. 462, 30 S.E.2d 65 (1944). Accordingly, we believe that the General Assembly intended that the phrase "luggage compartment" as used in § 61-9-87 maintain the same meaning as previously used in § 61-5-20(1). Moreover, §§ 61-9-87 and 61-5-20(1) must be construed together in that they are complementary provisions, both related to the regulation of alcohol in South Carolina. See § 61-3-40; cf. Fidelity and Casualty Ins. Co. of New York v. Nationwide, 278 S.C. 332, 295 S.E.2d 783 (1982). Thus, "luggage compartment" as defined in R.7-1D is applicable to § 61-9-87. Accordingly, we conclude that beer or wine in an open container may be transported in the cargo area behind the rear seat of a station wagon or similar vehicle. We emphasize in reaching this conclusion that beer and wine transported in such a manner may not be consumed or possessed by any occupant of the vehicle during its transportation.

Very truly yours,


Edwin E. Evans
Senior Assistant Attorney General

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REVIEWED AND APPROVED BY


Robert D. Cook
Executive Assistant for Opinions