

The State of South Carolina



Office of the Attorney General

Opinion No. 85-42
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April 17, 1985

Honorable Liston Barfield
Member, S. C. House of Representatives
320D Blatt Building
1105 Pendleton Street
Columbia, South Carolina 29211

Dear Representative Barfield:

You have asked whether a temporary sale and consumption license issued pursuant to § 61-5-180, Code of Laws of South Carolina, 1976 (1984 Cum.Supp.) ^{1/} authorizes the holder of a temporary alcoholic beverage license to sell beer and wine during the hours authorized by the temporary license. While § 61-5-180 does not address or authorize the sale of beer and wine, § 61-9-90 authorizes the sale of beer and wine by those persons holding both sale and consumption licenses and beer and wine permits during any hours alcoholic beverages of two ounces or less [mini-bottles] may be lawfully sold by the sale and consumption licenseholder. Thus, it is the opinion of this Office that a sale and consumption licenseholder who possesses a beer and wine permit and who, in addition, obtains a temporary alcoholic beverage license pursuant to § 61-5-180 may lawfully sell beer and wine during the extended hours that mini-bottles may be sold as authorized by the temporary license.

As with any act of the Legislature the paramount consideration is, of course, the intent of the General Assembly. City of Spartanburg v. Leonard, 180 S.C. 491, 186 S.E. 395 (1936). A statute must receive a practical, reasonable, and fair interpretation consonant with the purpose, design and policy of the lawmakers. Caughman v. Columbia YMCA, 212 S.C. 337, 47 S.E.2d 788 (1948).

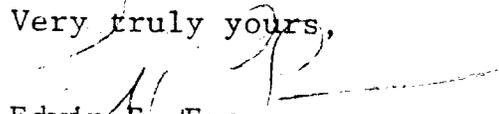
^{1/} Act No. 512, Part II, § 63 of 1984 Acts and Joint Resolutions.

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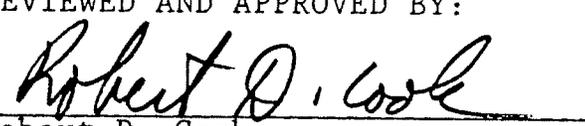
Sections 61-9-90, 61-5-20(3) and (4) ^{2/} and 61-5-180 must be read in para materia and construed together to identify the legislative intent since these provisions are related. Fishburn v. Fishburn, 171 S.C. 408, 172 S.E. 426 (1934). In § 61-9-90 the General Assembly provides that the holder of a sale and consumption license may sell beer and wine "during those hours in which the sale of alcoholic beverages in containers of two ounces or less is lawful." Since § 61-5-180 serves to extend the hours alcoholic beverages may be lawfully sold by a sale and consumption licenseholder, it becomes clear that a person who possesses a sale and consumption license and a beer and wine permit may sell beer and wine during these extended hours authorized by the temporary alcoholic beverage license. Thus, we conclude that a location licensed to sell mini-bottles as defined in 61-5-20(3) and (4), ^{3/} that possesses a beer and wine permit, and in addition obtains a temporary mini-bottle license may sell beer and wine during those extended hours that the location is authorized to sell mini-bottles.

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

^{2/} This provision describes the general sale and consumption licenses.

^{3/} The Alcoholic Beverage Control Commission construes 61-5-180 as mandating an applicant to possess a regular sale and consumption license as a requisite to the issuance of a temporary license; thus, any person who obtains a temporary alcoholic beverage license must possess a regular sale and consumption license. Accordingly, it is not necessary to address whether an individual who does not maintain a regular sale and consumption license may sell beer and wine during the extended hours authorized for the sale of mini-bottles pursuant to § 61-5-180 since pursuant to present practice such a scenario could not occur.