

1979 WL 43634 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 21, 1979

***1 RE: Nonprofit Clubs**

The Honorable James R. Metts
Sheriff
Lexington County
521 Gibson Road
Lexington, South Carolina 29072

Dear Sheriff Metts:

Thank you for your letter of November 2, 1979, addressed to the Attorney General. In that correspondence you asked whether private clubs which serve alcoholic beverages are included in [§§ 33-31-10 et seq., Code of Laws of South Carolina, 1976](#), as amended. In addition, you asked whether it is mandatory that you approve declarations for incorporation pursuant to § 33-31-40 of the Code. Private clubs which serve alcoholic beverages and seek to incorporate generally come within the purview of [§§ 33-31-10 et seq.](#) The purpose of these sections is the incorporation of nonprofit organizations and if the private organization serving alcoholic beverages qualifies as nonprofit and complies with the statutes set forth, its incorporation would be pursuant to these sections.

Section 33-31-40 in pertinent part requires the approval by the Sheriff and others of a written declaration for incorporation by nonprofit organizations. The last sentence of § 33-31-40 states in part that this approval ‘. . . shall not apply to applications for charters for religious or eleemosynary institutions.’ The South Carolina Supreme Court has previously defined eleemosynary purposes as ‘charitable’ or ‘benevolent’. [Ellerbe v. David, 193 S.C. 332, 8 S.E.2d 518, 520; Johnson v. Spartanburg County Fair association, 210 S.C. 56, 41 S.E.2d 599.](#) Section 81-5-20 of the Code states in paragraph three (3) thereof that

Nonprofit organizations with limited membership, not open to the general public, established for social, benevolent, patriotic, recreational or fraternal purposes may be licensed to sell alcoholic liquors and beverages in sealed containers of two ounces or less. [Emphasis added]

Therefore, if an incorporated nonprofit private club which sells alcoholic beverages is established for ‘benevolent’ purposes it would come under the exemption provided in § 33-31-40 and would not require the approval by the Sheriff. Otherwise, the approval of the Sheriff would be required prior to issuance of the charter.

If this Office can be of further assistance, please call upon us.

Very truly yours,

Edwin E. Evans
Assistant Attorney General

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