

1978 S.C. Op. Atty. Gen. 172 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-137, 1978 WL 22605

Office of the Attorney General

State of South Carolina

Opinion No. 78-137

July 16, 1978

**\*1 SUBJECT: Alcoholic Beverages; Malt Beverages; Warrants**

Search and Arrest Warrants for the illegal sale of alcoholic liquors and beer may be executed on Sunday.

TO: Officer Dick Bennett  
Investigator Special Operations

QUESTION:

Can a law-enforcement officer execute search and arrest warrants for the illegal sale of alcoholic liquors and beer on Sunday?

STATUTES AND CASES:

§ 17–3–90 and Title 61 of the Code of Laws of South Carolina (1976), as amended

White v. S. C. Dept. of Parks, Recreation and Tourism, S. C. Supreme Court, Op. No. 20708 (June 7, 1978)

[State v. Turner](#), 198 S.C. 498, 18 S.E. 2d 376 (1942)

45 Am. Jur. 2d Intoxicating Liquor, § 10

DISCUSSION:

Service of criminal warrants on Sunday is generally prohibited by statute, there being several exceptions to this prohibition—including violations of the law relating to intoxicating liquors.

No criminal process shall be served on Sunday, except for treason, felony, violation of the law relating to intoxicating liquors, gambling, or illegal drugs, or breach of the peace. Provided, however, that only law-enforcement officers under bond shall be permitted to execute a search warrant. § 17–13–90, Code of Laws of South Carolina (1976), as amended, (Emphasis added).

Thus, criminal warrants relating to the illegal sale of alcoholic liquors may be executed on Sunday. ‘Beer’, when used in its ordinary acceptation, generally means an intoxicating liquor or alcoholic beverage. 45 Am. Jur. 2d, Intoxicating Liquor, § 10. Accordingly, absent a showing of contrary legislative intent, the statutory exception carved for violations of the law relating to intoxicating liquor would include within its scope violations of the law relating to beer.

Research of the South Carolina Code reveals that beer is defined in Title 61 of the 1976 Code to be a ‘nonintoxicating’ or ‘nonalcoholic’ beverage, § 61–9–10, Code of Laws of South Carolina (1976), as amended. It is apparent, however, that this statutory definition is limited to the Title of laws pertaining to alcoholic beverage regulation and taxation. The Court has previously reasoned:

It is true that the Legislature has declared beer and wine containing not in excess of a specified alcoholic content to be non-alcoholic and non-intoxicating, but, in our opinion, it is clear from a reading of the whole act that such definition was adopted for no purpose other than to regulate and control the sale of wine and beer, and to facilitate the enforcement of the license tax imposed. [State v. Turner](#), 198 S.C. 499, 507; 18 S.E. 2d 376 (1942). (Emphasis added).

The courts in South Carolina have refused to apply a statutory definition adopted for the limited purposes of one act to a separate and distinct provision of the Code. Cf. White v. South Carolina Department of Parks, Recreation and Tourism, S. C. Supreme Court, Op. No. 20708, (June 7, 1978). Thus, the statutory definition of beer intended to assist in alcoholic beverage regulation and found within the Alcoholic Beverage Control Act is not controlling on [§ 17-13-90](#), a statutory provision pertaining to criminal arrest and procedures.

\*2 Accordingly, beer falls within the ambit of intoxicating liquors as used in [§ 17-13-90](#).

CONCLUSION:

A law-enforcement officer may serve search and arrest warrants on Sunday for violations of the law relating to alcoholic liquors, beverages, beer, and wine.

Edwin E. Evans  
Assistant Attorney General

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