

1978 WL 35302 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 27, 1978

***1 Re: Opinion Request**

Nicholas P. Sipe, Esquire
Legal Counsel
S.C. Alcoholic Beverage Control Commission
1205 Pendleton Street
Columbia, South Carolina 29201

Dear Nick:

You have previously asked this office for advice on three separate questions. Each of which is responded to below.

1. May a minor under the direction and supervision of law enforcement officers purchase alcoholic beverages to assist in law enforcement activity?

This office has previously concluded that to use a minor in the purchase of beer and wine and alcoholic beverages, and then subsequently to arrest the seller, does not constitute entrapment. (See enclosures). The fact that the seller may allege that the officers were contributing to the delinquency of the minor would not affect the legality of the arrest of the seller. That question presents a collateral issue which, according to the previous opinion of this office attached hereto, appears to have no prohibition in the law.

2. Should a violation of ABC [Regulation 7-17\(j\)](#) be treated by the Commission as a conclusion that the private club no longer qualifies for a sale and consumption license?

It appears that a violation of Rule 7-17(j) could serve as evidence that the ‘applicant no longer meets the requirements of § 61-5-50’. Section 61-5-60, Code of Laws of South Carolina 1976 as amended. That is, a violation of Rule 7-17(j) would offer evidence that the private club is opening its doors to non-members. However, a one-time violation of R7-17(j) would appear to be insufficient evidence upon which to determine that the applicant is no longer a bona fide nonprofit organization open only to members. I would therefore advise that without additional evidence, a one-time violation of Rule 7-17(j) should be handled in the same manner as any other violation of the Rules and Regulations of Alcoholic Beverage Control Commission. See, § 61-5-110 of the South Carolina Code.

3. Can the ABC Commission require payment by the Appellant prior to transcribing hearing testimony on an appeal?

The review of final decisions of the ABC Commission occurs in various ways. See, §§ 61-5-90, 61-3-780 and 61-3-790 for review by certiorari; §§ 61-1-90 and 1-23-380 for other appeal statutes. In proceedings where review is by certiorari the court, pursuant to Rule to Show Cause, orders the preparation of the record upon terms and conditions it deems reasonable. Therefore, the cost of the transcription of the testimony taken before the Commission and certified to the court will be levied by the court. On matters appealed pursuant to either § 61-1-90 or § 1-23-380, the agency is responsible for the preparation and certification to the court of the record. However, under any of the review procedures, the agency is under no duty to provide the Appellant a copy of the transcript. If he desires a copy of the transcript for any reason, the Appellant is responsible for the payment of the costs thereof to the Commission, after a request for the same has been made.

*2 I hope this information prove to be some assistance. I remain,
Very truly yours,

Edwin E. Evans
Assistant Attorney General

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