

1976 S.C. Op. Atty. Gen. 351 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4494, 1976 WL 23111

Office of the Attorney General

State of South Carolina

Opinion No. 4494

October 18, 1976

*1 The word 'school' as used in § 4–33.1 of the Code of Laws of South Carolina, as amended, does not include colleges or universities.

TO: Kenneth E. Allen

Director

South Carolina Alcoholic Beverage Control Commission

QUESTION PRESENTED:

Does the word 'school' as used in § 4–33.1 of the Code of Laws of South Carolina, 1962, include colleges and universities?

AUTHORITIES:

§ 4–1 *et seq.*, Code of Laws of South Carolina, 1962, as amended;

[Lawrence v. Cain](#), 144 Ind. App. 210, 245 N.E.2d 663 (1969);

[Murphy v. Worcester Consolidated Street Railway Co.](#), 199 Mass. 279, 85 N.E. 507 (1908);

[Xavier v. Thigpen](#), 151 So.2d 550 (1963);

Websters Third New International Dictionary.

DISCUSSION:

§ 4–33.1 prohibits, *inter alia*, the issuance of a license to any place of business for the sale or consumption of alcoholic liquors which falls within the proscribed distances to a school. The absolute prohibition of said section is countenanced somewhat by the proviso found at the end of the section, and by § 4–29.3(c) of the Code, which are not applicable to this discussion. The word 'school' is statutorily defined in § 4–33.1(2) in the following manner:

(2) 'school', an establishment, other than a private dwelling where the usual process of education are usually conducted;

The definition found in the statute itself, does not expressly include or exclude colleges or universities. Therefore, reference to case decisions defining the term in question is in order.

The term 'school' has been defined by many Courts with regard to the inclusion or exclusion of colleges and universities. In [Lawrence v. Cain](#), 144 Ind. App. 210, 245 N.E.2d 663, the Court determined that the word school, by its normal usage, is considered local school corporations and does not generally include higher seats of learning which are usually referred to as colleges or universities. In addition, [Murphy v. Worcester Consolidated Street Railway Co.](#), 199 Mass. 279, 85 N.E. 507 (1908), recognized that the word school was broad in its scope, but held, however, that without some indication

that the word was intended to so include, it would not be interpreted to include colleges and other institutions of higher learning. The Louisiana Court in [Xavier v. Thigpen](#), 151 So.2d 550, determined that the word school included colleges and universities, but reached this result, based upon the reasoning that the statute in question specifically excluded business colleges, and therefore, by implication included other modes of post-secondary education.

§ 4-33.1 does not define school in a manner such that any implication can be drawn which would indicate an intent to include colleges or universities. On the contrary, the definition of school found at § 4-33.1(2) and quoted hereinabove utilizes the phrase 'usual processes of education'. The word 'usual' is generally accepted as 'meaning common, customary, and ordinary'. [Websters Third New International Dictionary](#). A defining of the term school in such manner would emphasize an intent to excluded colleges and universities from the same.

CONCLUSION:

*2 Accordingly, the proscriptive requirements of § 4-33.1 do not absolutely prohibit the licensing of a business for the sale or consumption of alcoholic liquors wherein a college or university is located within the prescribed distances to such place of business. The licensing of said place of business would be contingent upon satisfying the remaining requisites to licensure. See: § 4-29.3, § 4-29.5, § 4-32, and § 4-53.

Edwin E. Evans
Assistant Attorney General

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