

1974 WL 27910 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
August 8, 1974

*1 Mr. Joe G. Shinn
Director
South Carolina Alcoholic Beverage Control Commission
Box 1445
Columbia, South Carolina 29202

Dear Mr. Shinn:

This is in further reply to your inquiry of July 29, 1974, as to whether the provisions for cash deposits set forth in Section 4-202.1, South Carolina Code of Laws (1962), as amended, apply to barrels and kegs of beer.

By way of reply in a letter dated August 1, 1974, I indicated that this Section contained contradictory provisions and concluded that the term 'empties' did not include kegs or barrels because the amount of the deposit was expressed in terms of cents per case of bottles with no similar specification for the deposit on other returnable containers.

Inasmuch as you have indicated that there is still some confusion over this question, I hasten to add by way of clarification that the aforementioned opinion does not state that wholesalers are prohibited from requiring cash deposits from retailers on kegs and barrels. It does conclude that such deposits are not made mandatory by Section 4-202.1. This is not to say that wholesalers and retailers cannot make satisfactory arrangements among themselves in the course of their normal business relationships to provide for the payment and amount of deposits on all cooperage.

It is apparent that legislation is needed to clarify whether or not it is the intent of the General Assembly that Section 4-202.1 include kegs, barrels and other cooperage within its classification of 'empties.'

Sincerely,

Dudley Saleeby, Jr.
Assistant Attorney General

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