

1973 WL 26604 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 9, 1973

***1 Re: Consumption and Sale of Alcoholic Beverages on College Campuses**

Mr. Rufus R. Hackney
Vice President for Student Affairs
Francis Marion College
Florence, South Carolina 29501

Dear Mr. Hackney:

In your letter of January 22, 1973, you made a number of inquiries with regard to the sale, serving and consumption of beer, wine and alcoholic beverages upon the property of State supported colleges. We shall respond to these questions in the numerical order in which you presented them.

Part I

1. Serving of beer and wine at social functions on campus.

There are no Code provisions or applicable ABC regulations that prohibit this activity. In the absence of a rule or regulation promulgated by the governing body of the college, such beverages could be served as long as the recipients were ever eighteen (18) years of age. (§ 4-203.4, South Carolina Code of Laws). (See Appendix A, Opinion of February 26, 1970).

2. Sale of wine and beer by student groups.

Neither the South Carolina Code nor the ABC regulations proscribe the sale of beer containing not in excess of 5% of alcohol by weight and wine containing not in excess of 14% of alcohol by volume on a college campus. (§§ 4-82, 4-201, South Carolina Code of Laws). A permit authorizing such sales would have to be obtained from the ABC Commission pursuant to § 4-211, *et seq.*, South Carolina Code of Laws. It would be wise to check for possible conflicts with the college's rules and regulations. (See Appendices B and C, Opinions of December 11, 1970, and May 4, 1971).

3. Serving of beer and wine in college facilities.

See responses to Questions 1 and 2 above.

4. Brown-bagging in the College Center Building.

Inasmuch as the grounds and facilities of State supported institutions are considered to be publicly owned property, brown-bagging could only be allowed thereupon under a special permit as provided for by § 4-48, South Carolina Code of Laws. This is a temporary permit (72 hours maximum) and only applies to auditoriums, coliseums and armories. If the College Center falls within one of these three categories, the college could allow brown-bagging therein under a temporary permit.

5. Implications of the mini-bottle legislation.

Inasmuch as the General Assembly has yet to complete the ratification process, it would be inappropriate to speculate at this time about the probable consequences of the mini-bottle law. § 10(2)(b) of Act No. 1063, Acts of 1972, the proposed enabling legislation provides:

Any person may possess or consume alcoholic liquors: . . . on any other property not engaged in any business or commercial activity, et private gatherings, receptions, or occasions of a single and isolated nature, and not on any repetitive or continuous basis, with the express permission of the owner and any other person in possession of such property, and to which the general public is not invited . . .

*2 Additional questions which you have raised include the following:

Part II

1. Availability of 'brown-bagging' licenses after the mini-bottle is approved.

No such licenses or permits are provided for in the enabling legislation. (Act No. 1063, Acts of 1972). However, this Act does not purport to repeal or modify § 4-48, South Carolina Code of Laws, providing for temporary permits for publicly owned buildings. Therefore, this special possession and consumption permit will still be available.

2. Availability of special permits allowing consumption of alcoholic beverages at campus events.

Section 4-48, South Carolina Code of Laws, which has been discussed in detail above, authorizes the issuance of a permit for possession and consumption for the benefit of persons lawfully using publicly owned auditoriums, coliseums and armories. The maximum duration of these permits is seventy-two hours. (See Part I, question 4).

3. Sale of beer at athletic events.

There are no laws or regulations prohibiting applications for such a license. Granting of the license is, of course, solely within the discretion of the ABC Commission, and the application may well be denied if the location of the proposed place of business is found to be unsuitable. (See Appendix B).

4. Status of beer and wine sales at other State supported institutions.

This office has no information available with regard to the practice you describe. We would suggest that you contact the other State supported colleges and universities.

5. Practice in nearby states.

We have no information on this topic. Once again, it would be advisable for you to contact the appropriate institutions in other states.

I hope that this material will prove to be of some assistance to you.

Sincerely,

Dudley Saleeby, Jr.
Assistant Attorney General

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