

1984 WL 249691 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 2, 1984

**\*1 RE: Opinion request, § 63, Part II of Act 512 of 1984**

Honorable Heyward McDonald  
Senator  
Richland, Chester & Fairfield Counties  
Post Office Box 58  
Columbia, South Carolina 29202

Dear Senator:

You have posed three questions relative to § 63, Part II, of Act 512 [§ 61-5-180, Code of Laws of South Carolina, 1976 (1984 amendments)]. This provision provides a procedure whereby the South Carolina Alcoholic Beverage Control Commission may issue to certain non-profit organizations or business establishments<sup>1</sup> a temporary permit to allow the possession, sale and consumption of alcoholic liquors in containers of two ounces or less. This temporary permit is valid for a period not to exceed twenty-four hours. The Act provides however, that the Commission may not issue these temporary permits unless a referendum vote in favor of the issuance of those permits is conducted by the appropriate municipality or county, respectively.

You first inquire whether if a county-wide referendum is held and the vote is favorable, are all municipalities within the county covered by the vote. Although the language chosen by the legislature is not completely clear, we believe the language used identifies a legislative intent that each municipality be allowed to conduct its own referendum with regard to whether the temporary mini-bottle license shall be authorized within the incorporated limits of the municipality. The language of § 61-5-180 expressly authorizes both municipalities and counties to conduct referenda. This language used indicates the intent of the General Assembly to recognize the autonomy of a municipality within its borders and likewise recognizes the autonomy of the county within the unincorporated areas of the county. Accordingly, we advise that a referendum conducted by a county upon this issue would be applicable and thus operative only within the unincorporated areas of the county conducting the referendum.

You next inquire whether if a Richland County-wide referendum is held and it fails, would the municipality of Columbia be able to hold the referendum the following year; that is, without waiting for forty-eight months. Consistent with our construction of this provision and the conclusion noted heretofore, we opine that the prohibition upon the conduct of a subsequent referendum within 48 months of a prior referendum does not operate to prohibit the conduct of a referendum by a different government entity. Thus, in the example you have provided, the holding of a Richland County-wide referendum pursuant to this act would not require the City of Columbia to delay 48 months prior to conduct of its referendum.

Additionally, you have inquired whether it is possible for Richland County and the municipality of Columbia to hold separate referenda, upon submission of the proper petitions, at the same time. We perceive no problem with the simultaneous conduct of such referenda.

We do not herein address considerations other than those raised by your letter; however, we do advise that this act was submitted to the United States Justice Department for preference pursuant to the Voting Rights Act on October 16, 1984, and that as of this date we have received no response from the United States Justice Department.

Very truly yours,

\*2 Edwin E. Evans

Senior Assistant Attorney General

Footnotes

- 1 Business establishment' as used herein is defined at § 61-5-10(1); amplification of the term 'non-profit organization' as used herein may be found at § 61-5-20(3).

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