

1976 S.C. Op. Atty. Gen. 115 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4295, 1976 WL 22915

Office of the Attorney General

State of South Carolina

Opinion No. 4295

MARCH 12, 1976

\*1 A retail beer and wine permit issued to an individual pursuant to Section 4-211 of the Code terminates upon that individual's death.

TO: Honorable Kenneth E. Allen  
Director  
Alcoholic Beverage Control Commission

QUESTIONS PRESENTED:

Does a retail beer and wine permit issued to an individual pursuant to Section 4-211 of the Code terminate upon that individual's death?

STATUTES, CASES, ETC., INVOLVED:

Sections 4-211, 212, Code of Laws of South Carolina, 1962, as amended.

Chapter 2 of Title 4 of the Code of Laws of South Carolina, 1962, as amended.

Section 4-52, Code of Laws of South Carolina, 1962, as amended.

45 Am Jur2d, Intoxicating Liquors.

48 CJS, Intoxicating Liquors.

DISCUSSION OF ISSUE:

Generally it is concluded that a liquor license is not transferable unless a statute permits a transfer. 48 CJS Intoxicating Liquors, Section 138; 45 Am Jur2d, Intoxicating Liquors, Section 177. Additionally, a license to sell liquor is considered a mere personal privilege and is not transferable by operation of law. 45 Am Jur2d, supra. In South Carolina, the retail sale of beer and wine is regulated by statute and the selling of beer and wine at retail is permitted only by those licensed pursuant to Section 4-211, Code of Laws of South Carolina, 1962, as amended. Section 4-212 of the Code provides among other things that no permit authorizing the sale of beer and wine shall be issued unless:

‘(1) The Applicant, and any agent or employee or servant of the applicant to be employed on the licensed premises, shall be of good moral character;

(2) The retail applicant shall be a citizen of this state for a least one year prior to the date of application and shall have maintained therein his or her principal place of abode for at least one year prior to the date of the application;

(4) The applicant has not, within 2 years prior to the date of the application, had revoked any beer and wine permit issued to him;

(5) The applicant shall be 21 years of age or over.'

This statute clearly indicates that the legislature intended for only those persons who are qualified and who satisfy these personal requirements be permitted to sell beer and wine within this State, and that no person who has failed to demonstrate to the South Carolina Alcoholic Beverage Control Commission that he or she satisfies these requirements shall be issued a permit to sell beer or wine. Without question, South Carolina Law regulates the persons who hold beer and wine permits as well as the locations at which beer and wine may be retailed.

A perusal of the South Carolina Law relative to beer and wine and alcoholic beverages, particularly Chapter 2 of Title 4 of the Code, reveals no statute which would authorize a transfer of a beer and wine permit in any manner. 45 Am Jur2d, supra, Section 184 states:

It is generally held that the death of a liquor licensee terminates the license and it does not pass to his personal representative. However, in some states provision is made for the continuance of a liquor business by the personal representative upon application to the liquor authorities who may in their discretion, permit the continuance of the business or refuse to do so.

\*2 In South Carolina, there is no provision by which a retail beer and wine permit can be transferred upon the death of the permittee. (Note: Section 4-52 does permit such a transfer for all alcoholic liquor licenses issued pursuant to Chapter 1 of Title 4 of the South Carolina Code) Accordingly, any beer and wine permit issued by the South Carolina Alcoholic Beverage Control Commission terminates upon the permittee's death.

#### CONCLUSION:

A permit issued to a person which authorized that person to sell beer and wine is not transferable upon that person's death unless a statute so permits. A review of the applicable statutory law in South Carolina reveals that there is no such statutory authorization.

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