

1976 WL 30750 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 31, 1976

*1 Mr. William J. McCord
Director
Commission of Alcohol and Drug Abuse
Post Office Box 4616
Columbia, SC 29240

Dear Mr. McCord:

I am in receipt of your recent correspondence in which you asked this office to determine whether or not the Uniform Alcoholism and Intoxication Treatment Act appears to be in conformity with the Uniform Act which was drafted by the National Conference of Commissioners on Uniform State Laws.

Please be advised that in reviewing the provision of the South Carolina Act, I find that Section 1 of the Uniform Act and Section 1 of the South Carolina law appear to be identical. Section 10 of the Uniform Act is contained in the South Carolina Uniform Act but is separate legislation under the South Carolina Code of Laws, Section 32-995. Section 19 of the Uniform Act is contained in the South Carolina Act under Section 8. Thus the South Carolina Act appears to be in conformity with the Uniform Act as recommended by the National Conference of Commissioners on Uniform State Laws.

You had further asked the question as to whether or not this Act would supplant other laws presently on the books in the State of South Carolina which provide penalties for drunkenness. I wish to advise you that, in my opinion there appears to be no inconsistencies with regard to this Act and other Acts or statutes which provide a penalty for drunkenness. For instance, Section 16-558 of the South Carolina Code of Laws, 1962, provides that:

‘Any person who shall (a) be found on any highway or in any public place or public gathering in a grossly intoxicated condition or otherwise conducting themselves in a disorderly or boisterous manner, . . . (c) while under the influence or feigning to be under the influence of intoxicating liquor, without just cause or excuse, discharge any gun, pistol or other firearm while upon or within fifty yards of a public road or highway . . .’

I feel that this definition of a condition is a different condition from that which is sought to be treated under the Uniform Act as opposed under Section (c) of 16-558. You can see that this is defined to prohibit certain actions in certain situations. That is, the gravamen of the offense not only being that a person be under the influence of intoxicating liquor but that one discharge a firearm. It would appear that there is no conflict between Section 16-558 and the Uniform Act as proposed.

Further, Section 16-557 of the 1962 Code of Laws of South Carolina provides for disturbances of religious worship and prohibits entering a religious meeting in a state of intoxication or selling spirituous liquor at such a meeting. Again, it appears that the gravamen of the offense is the disturbance of a religious worship and not necessarily the intoxicated state which one would find himself in. Therefore, I believe that this Section also is not in conflict with the Uniform Act.

It appears at the present that the effective date of the Uniform Act is July 1, 1976. As you have mentioned, if Senate Bill S-563 which is now on the calendar in the Senate for second reading is passed, the effective day of this Act would move up to June 1, 1976.

*2 It is the opinion of this office that the Uniform Act adopted by the State of South Carolina is in accordance with the Uniform Act recommended by the National Conference of Commissioners on Uniform State Laws and that the Act produces no conflict with presently existing South Carolina state laws involving drunkenness.

This office sincerely appreciates the opportunity to assist you and your staff in the implementation of this Act and stands ready to assist you at any time that you may deem necessary. If you desire further information from this office, please feel free to contact us.

With kind personal regards,

Hutson S. Davis, Jr.
Assistant Attorney General

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