

1972 WL 25541 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 16, 1972

***1 Re: Municipal Ordinance Regulating Retail Liquor Dealers' Hours of Operation**

W. Jerry Fedder, Esquire
Attorney at Law
Post Office Box 791
Seneca, South Carolina 29678

Dear Jerry:

Enclosed please find a letter to Attorney General McLeod, dated May 12, 1972, from the Honorable Bruce S. Cannon, Councilman of the City of Seneca, relative to a city ordinance regulating the hours of operation for retail liquor establishments. It is the policy of this Office, in regard to local governmental matters, that such requests should be presented by the local municipal attorney. For this reason, I have taken the liberty of forwarding the aforementioned letter to you.

However, in reference to this matter, I direct your attention to § 4-121, CODE OF LAWS OF SOUTH CAROLINA (1962), wherein it is provided that:

§ 4-121. Conflicting municipal ordinances suspended; enforcement of State laws.—All ordinances of towns and cities of this State prohibiting the doing of any of the acts and things prohibited by the provisions of § 65-270 or this article, except §§ 4-96 and 4-100, are hereby suspended, it being hereby declared that the State has occupied the field of the subjects covered thereby; judicial and police officers of towns and cities shall enforce such provisions within their respective jurisdictions. (1956 (49) 1841, 1992.)

This statute has been held to preempt the regulation of intoxicating liquors giving the State of South Carolina sole authority in this particular area. The [town of Honea Path vs. Flynn 255 S.C. 32, 176 S.E.2d 564 \(1970\)](#). It is the opinion of this office, therefore, that 'a municipality is powerless to enact ordinance upon that particular subject matter.' 1966-67 Op. Atty. Gen. p. 95, 96.

If we might be of any assistance, please call upon us.

With kind personal regards,
Sincerely,

Alexander S. Macaulay
Assistant Attorney General

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