

1984 S.C. Op. Atty. Gen. 254 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-110, 1984 WL 159917

Office of the Attorney General

State of South Carolina

Opinion No. 84-110

August 31, 1984

*1 Mr. Francis K. Sullivan
Executive Secretary
Charleston County Legislative Delegation
Post Office Box 487
Charleston, South Carolina 29402

Dear Mr. Sullivan:

You have asked this office whether it is 'a violation of the Open Container Law, Act 258, to have open containers of alcoholic beverages in the living quarters area of a motor home while it is in motion on South Carolina highways?' We believe that such possession of an open container violates South Carolina Law.

Act 258 of the 1984 Acts and Joint Resolutions provides:

It shall be unlawful for any person to have in his possession any beer or wine in an open container in a moving vehicle of any kind, licensed to travel in this State or any other state, that may travel upon the public highways of this State, except in the trunk or luggage compartment. This section shall not be construed to prohibit transporting beer or wine in a closed container. Any person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall be fined not more than \$100 or imprisoned not more than thirty days.¹

Inasmuch as § 61-9-87 regulates the possession of beer and wine [as opposed to alcoholic beverages] we construe your inquiry as relating to possession of open containers of beer and wine in a motor home travelling on a South Carolina roadway.

Section 61-9-87 expresses the General Assembly's intent to prohibit open containers of beer and wine in moving vehicles of any kind, licensed to travel in this State. While 'moving vehicle' is not specifically defined within § 61-9-87, a general reference is made to South Carolina's vehicle licensing laws; thus, the statutory definition of vehicle contained therein and incorporated by implication within § 61-9-87 is controlling. 'Vehicle' is there defined as:

Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationery rails or tracks . . .

Section 56-3-20(1). As is evident by its language, this statutory definition is intended to be broad and open-ended, in contrast with statutes which use the term 'automobile'. See, i.e., 7A AM.JUR.2d 'Automobiles and Highway Traffic', § 1. Moreover, the language chosen by the General Assembly, 'moving vehicle of any kind, licensed to travel in this State or any other state' demonstrates the legislative intent to use the term most broadly, to encompass every type of vehicle.

'Motor home' has been defined as 'a self-propelled vehicle which contains complete living facilities, including kitchen, dining, sleeping and bathroom facilities.' River Oaks Motor Homes, Inc. v. Winnebago Industries, Inc., 371 F.Supp. 137, 139 (S.D.Tex. 1974). A vehicle that meets this definition falls within the definition of 'moving vehicle' as the term is used in § 61-9-87. Since a 'motor possession of an open container of beer and wine in such vehicle is proscribed unless the beer and wine is transported in the 'trunk or luggage compartment' of such vehicle.'²

Very truly yours,

*2 Edwin E. Evans
Senior Assistant Attorney General

Footnotes

- 1 Act 258 is officially codified as § 61–9–87 Code of Laws of South Carolina, 1976 (1984 Cum.Supp.).
- 2 For guidelines as to the meaning of these terms, please see R7–1(d) and R7–1(e), Rules and Regulations of the Alcoholic Beverage Control Commission. These regulatory definitions were promulgated by the Alcoholic Beverage Control Commission to assist in the enforcement of § 61–5–20 which pertains to the transportation of alcoholic liquors.
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