

1981 WL 158138 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 9, 1981

*1 The Honorable Nicholas P. Sipe
Executive Director
South Carolina Alcoholic Beverage Control Commission
1205 Pendleton Street
Columbia, South Carolina 29201

Dear Nick:

You have asked whether an individual, who is the sole stockholder of a corporation which possesses three (3) liquor stores, may also be employed as a manager of another corporation which possesses one (1) liquor store. § 61-3-461 provides in part that: [n]o person, directly or indirectly, individually or as a member of a partnership or an association, as a member or stockholder of a corporation, or as a relative to any person by blood or marriage within the second degree, shall have any interest whatsoever in any retail liquor store . . .

Pursuant to § 61-3-460 of the Code, an individual is permitted to maintain an interest in three (3) licensed stores.

Clearly, the individual in question maintains an interest in the three stores owned by the corporation in which he is the stockholder. Thus, §§ 61-3-460 and 61-3-461, construed in harmony would prohibit any further 'interest' in a liquor store. The critical issue becomes whether the individual's employment as manager of the second corporation is an interest prohibited by § 61-3-461.

The cardinal rule in the construction of statutory language is to ascertain and give effect to the intention of the legislature. [Belk v. Nationwide Ins. Co.](#), 271 S.C. 24, 245 S.E.2d 744. The legislature has here determined that it is desirable to proscribe the monopolization of the liquor industries by individual or corporate entrepreneurs. See, e.g., [Grand Union Co. v. Sills](#), 43 N.J. 390, 204 A.2d 853. The term 'interest' has a multitude of meanings, depending upon its manner of its use and the content of the statute. 47 C.J.S. 'Interest' as 1. Thus, it should be defined reasonably and sensibly to further the legislative purpose.

Section 61-3-461 is explicit in designating certain relationships as proscribed interests, and this listing omits employment relationships. The significance of this legislative omission may not be ignored, and leads to the conclusion that mere employment by a corporation is not a prohibited interest.

However, the act contains very expansive language indicative of an intent to cast the broadest possible net in defining prohibited interests, such as '[n]o person, directly or indirectly . . . shall have any interest whatsoever . . .'. This broad, catch all, language can be compared to that construed in [Grand Union Co. v. Sills](#), *supra*, where the Court noted such language was intended to include interest in the broad or equitable sense rather than narrow or technical. See also, [Kilroy v. Bd. of Liquor Commissioners](#), 271 A.2d 531. Thus, if the employment situation partakes of the characterization of ownership or control then the act would proscribe the interest. [Webster's 3rd New Int. Dictionary](#) (1976 Ed.), 1178, 'Interest'. Each situation would depend on its particular facts. Of significant import would be factors such as whether compensation is related to profits of the corporation, or whether the employee had control over corporate decisions related to the retail liquor store.

*2 Accordingly, it is the opinion of this Office that mere employment by a corporation which holds a liquor license is not per se proscribed by § 61-3-441. However, if this employment possesses characterization of ownership or control of the liquor store, then it would be prohibited.

Very truly yours,

Edwin E. Evans
Assistant Attorney General

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