

1982 WL 189353 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 2, 1982

*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 inquired of this office as to whether the South Carolina Alcoholic Beverage Control Commission may license for sale and consumption pursuant to § 61-5-50, a non profit organization that is open to the general public on a regular basis. You have stated in your letter of inquiry that certain organizations regularly open to the general public for functions on their premises, however, they do not permit the sale and consumption of alcoholic beverages on those occasions. It is the opinion of this office that an organization regularly open to the general public would not qualify for a sale and consumption license pursuant to the requirements of § 61-5-20(3), Code of Laws of South Carolina, 1976, as amended.

Section 61-5-20(3) provides, inter alia:

Non profit organizations with limited membership, not open to the general public, established for social, benevolent, patriotic, recreational or fraternal purposes may be licensed to sell alcoholic liquors and beverages in sealed containers of two ounces or less. [emphasis added].

This literal language, which must be assumed to be indicative of the legislative intent specifies four (4) mandatory requisites that must be met prior to the Commission's consideration of whether or not the location should receive a sale and consumption license. Among those express requirements is that the organization not be open to the general public. Once the legislative intent has been ascertained from the clear and precise language of § 61-5-20, no further interpretative aids need be consulted. [Martin v. Ellisor, 266 S.C. 377, 223 S.E.2d 415.](#)

Consistent with the requirements of § 61-5-20(3) that a non profit organization may be licensed only if its not open to members of the general public are the requirements of [Art. VIII-A § 1 of the Constitution of the State of South Carolina](#) (1895, as amended). Pursuant to the proviso found therein, the General Assembly is authorized to permit through legislation the licensing of certain locations for the sale and consumption of alcoholic beverages in sealed containers of two ounces or less [minibottles]. Among the qualifications therein is that certain non profit organizations with limited membership may be licensed if they are 'not open to the general public'.

Accordingly, you are advised that non profit organizations with limited membership which are regularly open to the general public do not qualify for sale and consumption licenses pursuant to the requirements of § 61-5-20(3).

Very truly yours,

Edwin E. Evans
Senior Assistant Attorney General

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