

1980 WL 121053 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 15, 1980

***1 RE: Notice Required Prior to a Decision Affecting an Alcoholic Beverage License**

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

Dear Mr. Sipe:

You have asked this Office for advice on the notice required to precede a hearing held by the Commission to determine whether an alcoholic beverage license should be refused, revoked or suspended. Provisions of the South Carolina Administrative Procedures Act apply to state boards, or commissions, authorized by law to determine contested cases. [Section 1-23-310, Code of Laws of South Carolina](#), 1976, as amended. The South Carolina Alcoholic Beverage Control Commission is a State Commission or Board which is authorized by law to hear contested cases regarding the issuance, denial, suspension or revocation of alcoholic beverage licenses, [§§ 61-3-10, et seq., of the Code](#), and accordingly comes within the scope of the Administrative Procedures Act. Cf. *Parker v. South Carolina Dairy Commission, et al.*, Op. of S.C. Supreme Court No. 21126 (January 1980).

[Section 1-23-370 of the Code](#), makes Article 3 of the Administrative Procedures Act applicable to an administrative proceeding for the denial of a license if the denial is required to be preceded by notice and opportunity for hearing. Sections 61-3-770 and 61-5-90 of the 1976 Code require, among other things, an opportunity for hearing prior to the denial of an alcoholic beverage license. It, therefore, appears that the procedural requirements set forth in Article 3 of the Administrative Procedures Act are applicable to proceedings by the Commission which may result in the denial, suspension or revocation of an alcoholic beverage control license. Section 1-23-320(a) of the Administrative Procedures Act requires notice of not less than thirty (30) days in a contested case.¹ Contested case is defined in [§ 1-23-310 of the Code](#) as including licensing when the issuance or denial is to be determined by an agency after opportunity for hearing. Accordingly, absent waiver, it appears that thirty (30) days notice is required prior to a hearing for denial, revocation or suspension of an alcoholic beverage license.

Very truly yours,

Edwin E. Evans
Assistant Attorney General

Footnotes

- ¹ Section 1-23-320(a) is not in conflict with the notice requirements of §§ 61-3-770 and 61-5-90. The latter sections require at least ten (10) days notice and § 1-23-320(a) requires thirty (30) days notice.

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