

1980 WL 121033 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 13, 1980

*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 recently asked the opinion of this Office as to whether an administrative violation could be written for a private club holding a sale and consumption license which was engaged in selling beer to a nonmember on a Sunday. You also asked whether such stock could be confiscated because of the violation.

Section 61-5-20(3) of the Code of Laws of South Carolina (1976) is the authorization for private clubs to hold a sale and consumption license. Section 61-9-90 authorizes such establishments licensed pursuant to § 61-5-10 et seq. to sell beer and wine during those hours in which the sale of alcoholic beverages in minibottles is lawful. Thus, the authority of private clubs to sell beer and wine is based on both § 61-5-20 and § 61-9-90, and these statutes must be construed in pari materia. Section 61-5-50(3) requires that 'nonprofit organizations with limited membership, not open to the general public . . . may be licensed to sell alcoholic liquors and beverages in sealed containers of two ounces or less.' Construing the two sections together, it seems that a private club which sold beer indiscriminately to the general public would be in violation of the 'limited membership, not open to the general public' requirement which it must meet in order to keep a license under § 61-5-20(3). However, it does not appear that the entire stock could be seized for this violation, as the violation is not based on § 61-9-100 but instead on violation of § 61-5-20(3).

In conclusion, it appears that an administrative violation could be written for a private club holding a sale and consumption license which was engaged in selling beer to a nonmember on Sunday. However, the entire stock of the club could not be seized for such a violation.

Very truly yours,

Edwin E. Evans
Assistant Attorney General

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