

1977 S.C. Op. Atty. Gen. 116 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-140, 1977 WL 24482

Office of the Attorney General

State of South Carolina

Opinion No. 77-140

MAY 5, 1977

\*1 A sheriff is not authorized to sell at a private sale contraband beer and wine seized pursuant to § 4-204.1 or § 4-204.3 of the Code of Laws of South Carolina, 1962, as amended.

TO: Kenneth E. Allen  
Commissioner

#### QUESTION

Can a sheriff who has accumulated a stock of contraband beer and wine sell this beer back to a beer and wine wholesaler at a private sale and at a mutually agreed upon price, or must he sell the beer at public auction?

#### STATUTES, CASES, ETC.

Section 4-1 et. seq., Code of Laws of South Carolina, 1962, as amended;

Section 65-861 et. seq., Code of Laws of South Carolina, 1962, as amended;

Section 57-241 et. seq., Code of Laws of South Carolina, 1962, as amended;

[Fort Sumter Hotel v. S. C. Tax Commission](#), 201 S.C. 50, 21 S.E.2d 393.

#### DISCUSSION

In certain situations when an unlawful sale of beer or wine occurs, all beer and wine found on the premises is declared to be contraband and subject to seizure. See § 4-204.1, Sunday beer and wine sales; § 4-204.3, sale of beer and wine by unlicensed individual. In each situation cited above, the beer or wine seized as contraband is to be handled as contraband liquor. Section 4-111.1 of the Code prescribes the manner in which contraband liquor is to be disposed. The sheriff is authorized to sell seized liquor at public auction to the highest bidder after due advertisement. Only individuals who possess a license issued by the Alcoholic Beverage Control Commission may purchase alcoholic beverages at the auction.

I am aware of no authority which permits the sheriff to sell contraband beer and wine seized pursuant to § 4-204.1 or § 4-204.3 in a matter not prescribed by § 4-111.1.

#### CONCLUSION

Beer or wine confiscated and declared contraband pursuant to §§ 4-204.1 and 4-204.3 of the Code of Laws of South Carolina, 1962, as amended, must be sold at public auction in accordance with the prescriptions set forth in § 4-111.1 of the Code.

Edwin E. Evans

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