

1977 WL 37405 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 22, 1977

*1 Hon. James L. Rouse
Mayor
P. O. Box 70
Bonneau, South Carolina 29431

Dear Mayor Rouse:

Your letter of June 20th inquiring as to the validity of Ordinance No. 50 has been referred to me for response. I am enclosing a copy of an opinion written by this Office (1966-67 OPS.ATTY.GEN., Op. No. 2282 at 95) which should answer your question. The ordinance in question here prohibits the sale of 'alcoholic beverages' between twelve o'clock midnight and six o'clock the following morning. The State has exclusive authority in regulating the sale of alcoholic liquors and beverages (§§ 61-13-760 and 61-13-770, 1976 Code of Laws); therefore municipalities have no authority to enact ordinances in this area. Municipalities may, however, enact ordinances concerning beer and wine. § 61-9-10, 1976 Code. Because the ordinance in question specifically regulates 'alcoholic beverages,' it is clearly invalid.

If the Town of Bonneau wishes to enact another ordinance similar to the one in question but regulating beer and wine only, it may be valid. Municipalities may enact ordinances that are not inconsistent with the Constitution and general law of the State, and municipalities may fix fines and penalties for violations of ordinances for not more than two hundred dollars or imprisonment for not more than thirty days. § 5-7-30, 1976 Code.

An ordinance prohibiting the sale of beer and wine between certain hours may be valid as long as the ordinance does not conflict with § 61-9-90 of the 1976 Code, which prohibits the sale of beer and wine between the hours of twelve o'clock Saturday night and sunrise Monday morning. See, [City of Charleston v. Jenkins](#), 243 S.C. 205, 133 S.E.2d 242 (1963).

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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