

1977 S.C. Op. Atty. Gen. 222 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-293, 1977 WL 24633

Office of the Attorney General

State of South Carolina

Opinion No. 77-293

September 19, 1977

\*1 TO: Nicholas P. Sipe  
Legal Counsel & Hearing Officer  
South Carolina ABC Commission

QUESTION:

May the possessor of a winery permit engage in the wholesale and retail sales of wine without obtaining additional licenses?

AUTHORITIES:

§§ 61-9-1220, 61-9-310, 61-9-330, 61-9-340, 61-9-1210, 12-21-1010, Code of Laws of South Carolina, 1976, as amended;

[Hughes v. Edwards](#), 265 S.C. 529, 220 S.E.2d 231;

[Martin v. Nationwide](#), 256 S.C. 577, 183 S.E.2d 451;

Vol. 17 S.C. Digest 'Statutes' § 184;

48 C.J.S. 'Intoxicating Liquors' § 251.

DISCUSSION:

An individual who desires to operate a winery must first obtain a permit from the Alcoholic Beverage Control Commission for that purpose. Section 61-9-1220, Code of Laws of South Carolina, 1976, as amended. The term 'winery' is not specifically defined by statute, but ordinarily refers to:

[A] building or plan where wine is produced. Websters International Dictionary (3rd Ed.)

Words in a statute should be taken in their ordinary and popular significance unless there is something in the statute which requires a different interpretation. [Hughes v. Edwards](#), 265 S.C. 529, 220 S.E.2d 231 (1975); [Martin v. Nationwide](#), 256 S.C. 577, 183 S.E.2d 451 (1971); See Vol. 17 S.C. Digest 'Statutes' § 184. A reading of § 61-9-1220 and other sections of the article pertaining to the operation of a winery (Art. II of Chapter 9 of Volume 20, 1976 Code of Laws of South Carolina) reveals no intention to define winery in a manner other than its ordinary significance. Section 61-9-1210 of same article evinces legislative intent to limit the term 'winery' to a place of production. In addition, § 12-21-1010 pertaining to wine license taxes, defines producer, inter alia, as a 'winery.' As such, it appears that a winery permit authorizes the production of wine.

Generally, it can be said that:

. . . manufacturers engaged in retail trade in liquors are subject to the laws requiring a license to be procured. The offense of selling without a license may be committed by the producer or manufacturer of intoxicating liquors who, although having the right to manufacture, has no license to sell. 48 CJS Intoxicating Liquors § 251.

Several factor indicated that this general statement of the law is applicable to wineries in South Carolina. The issuance of a winery permit by the Commission is not predicated upon the same requisite determination of qualifications as is the issuance of a sales permit. See, §§ 61–9–320 and 61–9–340. As such, the issuance of a winery permit would not necessarily insure that the Commission has determined that the holder has met the qualifications to hold a sales permit. Further support of this finding is that the legislature has specifically excluded a producer of wine in this State from the definition of wholesaler in the article pertaining to beer and wine license taxes. Section 12–21–1010.

\*2 Therefore, it appear that absent statutory exemption winery must obtain a license pursuant to § 61–9–320 in order to participate in the general wholesale or retail of wines.

CONCLUSION:

A winery must obtain licenses pursuant to § 61–9–310 prior to engaging in the wholesale or retail sales of wines.

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