

1975 S.C. Op. Att'y. Gen. 149 (S.C.A.G.), 1975 S.C. Op. Att'y. Gen. No. 4072, 1975 WL 22369

Office of the Attorney General

State of South Carolina

Opinion No. 4072

August 5, 1975

\*1 TO: Chief of Police  
Great Falls, South Carolina

QUESTION PRESENTED:

Whether or not Great Falls ordinance regarding Drinking In Public Places (Sec. 4-4) is constitutional.

STATUTES, CASES, ETC. INVOLVED:

South Carolina Constitution, Article VIII, § 11; [City of Charleston v. Jenkins](#), 243 S.C. 205, 133 S.E.2d 242 (1963); [Arnold, et al. v. City of Spartanburg](#), 201 S.C. 523, 23 S.E.2d 735; 1967, Ops.Att'y.Gen., No. 2282, p. 95; 30 Am.Jur. Intoxicating Liquors § 26 at 543.

DISCUSSION:

In your letter of July 24, 1975, to the Attorney General, you enclosed a copy of an ordinance relating to the prohibiting of the drinking of any kind of alcoholic liquor or non-intoxicating beverage in public. To be sure, Section 4-4 in its present form must be declared void and of no effect inasmuch as a portion of it is invalid. Section 4-4 reads as follows:

‘[I]t shall be unlawful for any person to drink any kind of alcoholic liquor or non-intoxicating beverage on the streets, alleyways, highways, or in any other public place in the Town.’

In South Carolina, with respect to alcoholic liquors, the State has expressly occupied the field; therefore, a municipality cannot enact ordinances upon that subject matter. S.C.CONST. Art. VIII § 11; cf 30 Am.Jur. Intoxicating Liquors § 26 at 543. Opinion No. 2282, issued from this Office circa May 26, 1967, is apposite to the matter under inquiry. With respect to the above-referenced opinion, a similar ordinance enacted by the Town of Ocean Drive Beach was declared invalid. I have enclosed a copy of that opinion for your information. While it has been held that municipalities may establish reasonable regulations concerning the hours during which beer and wine may be sold, with respect to alcoholic liquors, the State has expressly occupied the field. See [City of Charleston v. Jenkins](#), 243 S.C. 205, 133 S.E.2d 242 (1963); [Arnold, et al. v. City of Spartanburg](#), 201 S.C. 523, 23 S.E.2d 735; 1967, Ops.Att'y.Gen., No. 2282, p. 95.

CONCLUSION:

It is therefore the opinion of this Office that Section 4-4 is invalid inasmuch as it collides with the expressed power of the State to control, license, and regulate the manufacture, sale, and rental of alcoholic liquors and beverages.

Dudley Saleeby, Jr.  
Assistant Attorney General

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