

1975 S.C. Op. Atty. Gen. 243 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4192, 1975 WL 22487

Office of the Attorney General

State of South Carolina

Opinion No. 4192

November 21, 1975

*1 The possession and consumption of alcoholic liquors on Sunday at a private function on the premises of a business establishment which possesses a sale and consumption license pursuant to Section 10(4) of Act No. 1063, 1972 Acts and Joint Resolutions of the General Assembly of South Carolina, is not prohibited, it is otherwise lawful.

TO: Honorable Kenneth E. Allen
Director
Alcoholic Beverage Control Commission

QUESTION PRESENTED:

May a business establishment which has obtained a 'mini bottle' sale and consumption license pursuant to Section 10(4) of Act No. 1063, 1972 Acts and Joint Resolutions of the General Assembly of the State of South Carolina, (Section 4–29(4) Code of Laws of South Carolina, 1962, as amended) permit persons to possess and consume alcoholic liquors at a private function conducted on the premises of the licensed establishment and held on Sunday?

STATUTES, CASES, ETC., INVOLVED:

Section 4–29, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended.

Section 4–29.10, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended.

Section 4–95, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended.

Section 4–99, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended.

Sale and Consumption Regulation 15 of the Alcoholic Beverage Control Commission Rules and Regulations.

[Lewis v. Gaddy, 254 S.C. 66, 17 S.E.2d 376 \(1970\)](#)

DISCUSSION OF ISSUE:

The possession and consumption of alcoholic liquors and beverages is generally prohibited in South Carolina by statute. Section 4–29.10, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended. Section 4–95 of the Code prohibits any person from having or possessing alcoholic liquors in his place of business other than a liquor store. Section 4–99 of the Code prohibits the drinking of alcoholic liquors on the premises of a business establishment. However, Section 4–29 of the Code, as well as various other statutes, makes the possession and consumption of alcoholic beverages lawful in certain defined instances, notwithstanding any other provision of law. See [Lewis v. Gaddy, 254 S. C. 66, 17 S.E.2d 376 \(1970\)](#).

There are specific provisions of the law which allow the lawful possession or consumption of alcoholic liquors by private groups in separate private areas of an establishment which holds a 'mini bottle' license and is bona fide engaged primarily and substantially in the preparation and serving of meals or the furnishing of lodging. Section 4-29(2)(c) of the Code states as follows:

(2) Any person may possess or consume alcoholic liquors:

(c) In separate and private areas of an establishment whether or not such establishment includes premises which are licensed pursuant to subsections (3) and (4) of this section, where specific individuals have leased such areas for a function not open to the general public.

Subsections (3) and (4) as referenced in the above authorize the issuance of 'mini bottle' sale and consumption licenses. Subsection (4) pertains specifically to the issuance of said license to business establishments. There can be no question that a business establishment which holds a 'mini bottle' sale and consumption license pursuant to Section 4-29(4) may also lease areas for functions not open to the public in which alcoholic liquors are possessed or consumed if certain additional conditions are satisfied. Section 4-29(2)(c) requires the areas of the establishment wherein the private function takes place to be 'separate and private areas', this provision also requires that specific individuals must lease the areas wherein the function takes place. In addition Sale and Consumption Regulation 15 provides that such lease must be in writing, and shall automatically terminate at 2:00 a.m. This regulation also specifies that the host or sponsor of the private function must purchase and deliver to the leased area any alcoholic beverages that are to be possessed and consumed therein.

*2 There is no element of Section 4-29 of the Code or Sale and Consumption Regulation 15 which prohibits the possession or consumption of alcoholic beverages at a private function lawfully held pursuant to Section 4-29(2)(c) on Sunday. There are various provisions found elsewhere in the Code that restrict the sale and consumption of alcoholic liquors on Sunday. See Section 4-29(4) *supra*, which restricts the sale and consumption of 'mini bottles'; Section 4-102 of the South Carolina Code which prohibits the sales of alcoholic liquors on Sundays and other specified days. However, neither of these provisions restricts the lawful possession and consumption of alcoholic beverages pursuant to Section 4-29(2)(c) on Sunday.

CONCLUSION:

It appears that Section 4-29(2)(c) permits the lawful possession and consumption of alcoholic liquors at a private function on a premises with a 'mini bottle' sale and consumption license issued pursuant to Section 4-29(4), provided the other conditions are complied with. There apparently is no prohibition in the law against such a function being held on Sunday as long as it is otherwise lawful and is not violative of Sale and Consumption Regulation 15 restricting the time of day during which such functions can be held.

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