

1974 WL 27207 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 7, 1974

***1 RE: Validity of Municipal Ordinance Regulating the Hours for the Sale and Consumption of Beer and Wine**

Mr. Joe G. Shinn
Director
South Carolina Alcoholic Beverage Control Commission
P. O. Box 1445
Columbia, S. C. 29202

Dear Mr. Shinn:

You have asked this office to advise you as to the constitutionality of Ordinance No. 46-37 for the Town of Holly Hill which regulates the hours for the sale and consumption of beer and wine. In [City of Charleston v. Jeokins, 243 S.C. 205, 133 S.E. 2d 242 \(1962\)](#), the South Carolina Supreme Court upheld a similar ordinance as a proper exercise of the police power of the municipality. The Court's holding in that decision would be equally applicable here, thus making this ordinance an enforceable one. (See enclosed copy of letter of June 5, 1973, which discusses this issue in greater detail.)

Holly Hill Ordinance No. 46-37 regulates only the sale and consumption of beer and wine. It contains no provisions governing the use of intoxicating beverages and, therefore, does not restrict the hours for sale of such beverages. Municipal ordinances which purports to regulate the use of alcoholic beverages are invalid inasmuch as the State has already expressly occupied the field. [See enclosed copy of Opinion No. 2282, OP. ATTY. GEN. 95 (1967).] Indeed, Section 4-20(4), South Carolina Code of Laws, (1962), as amended, expressly authorizes the sale and consumption of alcoholic liquors in licensed business establishments between ten o'clock in the morning until two o'clock the following morning. Municipalities are powerless to impose additional restrictions on the hours for sale of these beverages.

If we can be of further assistance to you in this matter, please feel free to call upon us.

Sincerely,

Dudley Saleeby, Jr.
Assistant Attorney General

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