

1974 WL 27756 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 14, 1974

*1 Beer or wine may be imported into this State in foreign commerce and outerstate commerce for personal use and consumption in accordance with Act No. 823 of the Special Session of the 1973 General Assembly.

Mr. J. W. Lawson
Director
License Tax Division
South Carolina Tax Commission
Post Office Box 125
Columbia, South Carolina 29214

Dear Mr. Lawson:

You have requested that this office render an opinion concerning Act No. 823 of the Special Session of the 1973 General Assembly; specifically, whether the Act permits a person to bring beer and wine into this state from another state. Section 1 of the Act provides in part:

‘Section 65-744.13. No person, firm, corporation, club or association or any organization within this State shall bring, ship, transport or receive into this State in any manner whatsoever any beer or wine as defined in Section 65-731 for sale except duly licensed beer and wine wholesale distributors; provided, however, that an individual may be permitted to import beer and wine into this State for personal use and consumption within the State and not for sale, in quantities not to exceed ten cases, upon the receipt of a certificate from the Tax Commission authorizing the shipment and evidencing that such person has paid all taxes upon such beer and wine to the Tax Commission.’ (Emphasis added)

State legislation regulating the traffic of alcoholic liquors, when the same is brought into the state for sale or consumption therein, is permitted by the Twenty-first Amendment to the United States Constitution and such eliminates the constitutional issue whether or not the Act interferes with interstate or foreign commerce. See [Ziffrin, Inc. v. Reeves](#), 308 U.S. 132; [Washington Brewers Institute v. United States](#), 137 F. (2d) 964 (C. A. 9), cert. denied, 320 U. S. 776. Therefore, the issue which this opinion takes up is the meaning of the word ‘import’ as it relates to foreign commerce and to commerce between the states. The word ‘import’ has been the subject of numerous cases, some of which hold it to relate solely to commerce with foreign countries and some of which relate it to commerce between the states. In the cases reviewed, the context in which the word was used was held to be of particular significance.

In [30 Am. Jur., Intoxicating Liquors, Section 24](#), it is generally said that a state may adopt such measures as it deems reasonably appropriate or needful to protect its people against the evils incident to the traffic and the use of intoxicants. The purpose for this Act is to insure the collection of the taxes upon beer and wine by restricting the free flow thereof. Following this line of thought, this office is advised by the Tax Commission that there is no particular need or reason to interpret the word ‘import’ so as to prohibit a person from importing from another state beer or wine after such person has paid the taxes thereon and has received a certificate of authorization from the Commission. Further, we have found no legislative intent to restrict the traffic solely to foreign imports. It is our conclusion therefore, that the proviso permits a person to bring beer or wine into this state from another state. This conclusion avoids any question of discrimination in favor of foreign commerce and meets the certainty and exactness required of criminal statutes.

Yours very truly,

***2** G. Lewis Argoe, Jr.
Assistant Attorney General

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