

1974 WL 27898 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 2, 1974

***1 Re: Delivers of beer on ceded territory on Sunday**

Mr. Joe G. Shinn
Director
South Carolina Alcoholic Beverage Control commission
1205 Rendleton Street
Columbia, South Carolina 29201

Dear Mr. Shinn:

You have asked this office to advise you as to whether or not a distributor's delivery of beer on Sunday to Armed forces personnel on ceded territory constitutes a violation of Section 4-204, South Carolina Code of Laws (1962), as amended, making it unlawful for any person . . . to sell or offer for sale any wine or beer . . . between the hours of twelve o'clock Saturday night and sunrise Monday morning.'

A similar question was raised in [South Carolina Tax Commission v. Schafer Distributing Company, Inc.](#), 247 S. C. 491, 148 S. E. 2d 156 (1966). In that case the Tax Commission (predecessor of the ABC Commission in alcoholic beverage control) found a distributor guilty of violating Section 4-204 for delivering beer to Shaw Air Force Base on Sunday. In reversing that decision the Richland County Court of Common Pleas concluded that Section 39-132, South Carolina Code of Laws (1962), as amended, which ceded Shaw to the United States, placed that land in exclusive federal jurisdiction and beyond the jurisdiction of the State of South Carolina and the rules and regulations of the South Carolina Tax Commission. This ruling was not disputed on appeal and, thus, stands as the law of the case. (The decision of the Richland County Court was affirmed on the basis that there has no 'sale' under Section 204 until the distributor delivered the beer to the buyer which, of course, took place on territory beyond state jurisdiction.)

Most of the statutes ceding territory so the United States specify that such lands are within exclusive federal jurisdiction for all purposes save for the service of process. Therefore, a reference to the legislation ceding territory would be in order whenever this question is raised. In the majority of cases, however, it can safely be said that Sunday deliverers of beer on ceded territory be a distributor are not in violation of Section 4-204.

Sincerely,

Dudley Saleeby, Jr.
Assistant Attorney General

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