

1973 WL 26828 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 3, 1973

***1 Re: Enforcement of the criminal penalty provisions of Act No. 1063, Acts of 1972.**

Mr. Samuel H. Altmen
Assistant City Attorney
P. O. Box 5271
North Charleston, South Carolina 29406

Dear Mr. Altman:

Section 10.10 of Act No. 1063, Acts of 1972 (the 'mini-bottle' act) provides as follows:

Any person who transports, possesses or consumes alcoholic liquors except in a manner permitted by this act and any person who violates any of the provisions thereof shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars or be imprisoned for not more than thirty days.

This provision constitutes part of the criminal laws of the State and violations thereof may be prosecuted in any court of competent jurisdiction. In this regard, Sections 4-122' and 4-123, South Carolina Code of Laws (1962) indicate the respective powers of municipal courts and police officers with respect to enforcement of parts of the alcoholic beverage control laws.

In addition to the criminal penalties mentioned above, Section 10.10 also provides for the imposition of fines, suspensions and revocations against those persons 'licensed to sell alcoholic liquors' pursuant to the terms of the act. These administrative courses of action are available only to the Alcoholic Beverage Control Commission and are intended to provide that agency with the power to control and discipline licensees.

Enclosed you will find a copy of an opinion issued by this office on October 9, 1972, which highlights the distinction between administration of a privilege and the prosecution of criminal cases arising from violation of the Code of Laws.

If I can be of further assistance to you in this matter, please let me know.

Sincerely,

Dudley Saleeby, Jr.
Assistant Attorney General

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