

1973 WL 26928 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 15, 1973

**\*1 re: Act No. 1063, Acts of 1972**

F. Hall Yarborough, Esquire  
Attorney at Law  
P. O. Box 1265  
Orangeburg, South Carolina 29115

Dear Mr. Yarborough:

It was just brought to my attention that we had not yet responded to your inquiry concerning the 'mini-bottle' act. Please accept our apologies for any inconvenience which this oversight may have caused.

You have inquired as to the law and regulations affecting the possession and consumption of alcoholic beverages by individual members of private dance clubs on the premises of country clubs, Shrine clubs, etc..

Under these circumstances the applicable statutory provision would be Section 10(2)(b), Act No. 1063, Acts of 1972, provided the property used was not 'engaged in any business or commercial activity.' To the extent that Section 10(2)(c) overlaps or conflicts with Section 10(2)(b) in regulating private possession and consumption on non-business premises Section 10(2)(b) is controlling. Section 10(2)(b) is specifically directed to functions held on 'property not engaged in any business or commercial activity.' By way of contrast, Section 10(2)(c) authorizes possession and consumption in separate leased areas of an 'establishment,' a term frequently employed elsewhere in the Act to denote business operations. These two sections should be read together and harmonized if possible, but to the extent of conflict between the two with regard to non-commercial property, the more specific provision, Section 10(2)(b), must prevail. [Criterion Insurance Company v. Hoffman](#), 258 S.C. 282, 188 S.E.2d 459 (1972); see 82 C.J.S. Statutes Section 369.

Section 10(2)(b) provides that a person may possess and consume alcoholic liquors on the property described therein subject to the restriction that such conduct is only permitted

... at private gatherings, receptions or occasions of a single and isolated nature and not on any repetitive or continuous basis, with the express permission of the owner and any other person in possession of such property and to which the general public is not invited ... (Emphasis added.)

There are no statutory provisions or ABC regulations which prohibit an individual from bringing his own alcoholic beverages to the type of function specified in Section 10(2)(b); however, it is quite clear that these beverages cannot be possessed and consumed in any area of the property licensed to sell mini-bottles. Likewise, the ABC laws and rules do not prevent the club from purchasing the alcoholic beverages for the members' consumption provided that no charge, direct or indirect, is made for the drinks served.

Should the club lease an area of an establishment ('business or commercial operation') for a private function pursuant to Section 10(2)(c), it will have to adhere to ABC rules. Sale and Consumption Regulation 15 provides that such leases must be in writing and must terminate at two o'clock in the morning. Individuals may not bring their own alcoholic liquors. These must be purchased and delivered by the lessee, host or sponsor. (A copy of S. C. 15 is enclosed for your consideration.)

\*2 If we can be of further assistance in this matter, please feel free to call upon us.

Sincerely,

Dudley Saleeby, Jr.  
Assistant Attorney General

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