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CHAPTER 2.

 GENERAL PROVISIONS

**SECTION 61‑2‑10.** Definitions.

(A) As used in Title 61, unless the context clearly requires otherwise:

(1) “Department” means the South Carolina Department of Revenue.

(2) “Director” means the director of the Department of Revenue.

(3) “Division” means the South Carolina Law Enforcement Division.

(4) “Regulation”, unless otherwise specified, means a regulation promulgated by the department or division pursuant to (a) this title or (b) other provisions of the Code relating to beer, wine, and alcoholic liquors, and in accordance with Chapter 23 of Title 1.

**SECTION 61‑2‑20.** Administration and enforcement.

The functions, duties, and powers set forth in this title are vested in the department and the division. The department must administer the provisions of this title, and the division must enforce the provisions of this title.

**SECTION 61‑2‑30.** Personnel.

The department and the division must employ personnel necessary to administer and enforce the laws and regulations governing alcoholic liquors, beer, and wine. Salaries of these personnel must be set by the department and the division, as applicable.

**SECTION 61‑2‑40.** Financial interest of employees.

(A) The chief of the division and the director of the department directly or indirectly (a) individually, (b) as a member of a partnership or of an association, (c) as a member or stockholder of a corporation, or (d) as a relative to a person by blood or marriage within the second degree shall not:

(1) have an interest in the manufacture of or dealing in alcoholic liquors or in an enterprise or industry in which alcoholic liquors are required;

(2) receive a commission or profit on the purchase or sale of alcoholic liquors by any person; or

(3) have an interest in or mortgage or deed of trust on any land or building where alcoholic liquors are manufactured for sale, offered for sale, or sold or in personal property used therein.

(B) No employee of the department may license, permit, or participate in the licensing or permitting of a person, business, or organization which requires a license or permit for lawful operation under the law and regulations governing alcoholic liquors, beer, and wine if the employee has an ownership interest in that person, business, or organization.

(C) No employee of the division may enforce any law or regulation governing alcoholic liquors, beer, and wine against any person, business, or organization which requires a license or permit for lawful operation under the law and regulations governing alcoholic liquors, beer, and wine if the employee has an ownership interest in that person, business, or organization.

**SECTION 61‑2‑50.** Subpoena powers.

The department may issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers, and other documents and administer oaths and take testimony thereunder.

**SECTION 61‑2‑60.** Promulgation of regulations.

The department and the division are authorized to promulgate regulations necessary to carry out the duties imposed upon them by law for the proper administration and enforcement of, and consistent with this title including, but not limited to:

(1) regulations for the application and issuance of alcoholic liquor licenses, permits, and certificates;

(2) regulations to prevent the unlawful manufacture, bottling, sale, distribution, transportation, and importation of alcoholic liquors;

(3) regulations necessary to effect an equitable distribution of alcoholic liquors in this State;

(4) regulations for the analysis of alcoholic liquors sold in this State and for a procedure for obtaining the samples for this purpose;

(5) regulations governing the administration and enforcement of provisions relating to producers and wholesalers of beer and wine;

(6) regulations for application for and issuance of beer licenses, permits, or brewers’ certificates of approval and the sale, distribution, promotion, and shipment of beer into and within the State;

(7) regulations for the operation of breweries and commercial wineries; and

(8) regulations governing the enforcement of provisions relating to brewpubs.

**SECTION 61‑2‑70.** Authority to issue licenses, permits, and certificates.

The department has sole and exclusive power to issue all licenses, permits, and certificates provided for in this title.

**SECTION 61‑2‑80.** Exclusive authority to regulate; construction.

The State, through the department, is the sole and exclusive authority empowered to regulate the operation of all locations authorized to sell beer, wine, or alcoholic liquors, is authorized to establish conditions or restrictions which the department considers necessary before issuing or renewing a license or permit, and occupies the entire field of beer, wine, and liquor regulation except as it relates to hours of operation more restrictive than those set forth in this title.

Nothing contained in this section may be considered as prohibiting judicial appeals from decisions of the Administrative Law Court, as authorized by Chapter 23 of Title 1, nor as limiting the authority of the courts in interpreting and applying the laws of this State relating to matters administered by the department.

**SECTION 61‑2‑90.** Application for license or permit.

A person desiring a license or permit under this title must file with the department an application in writing on forms provided by the department containing a statement under oath setting forth:

(1) the name, address, date of birth, race, and nationality of the person applying for the license or permit;

(2) the exact location where the business is proposed to be operated;

(3) a description of the type of business to be operated;

(4) whether the applicant or an owner of the business has been involved in the sale of alcoholic liquors, beer, or wine in this or another state and whether he has had a license or permit suspended or revoked;

(5) whether the applicant has been a legal resident of this State for at least thirty days before the date of application, and has maintained his principal place of abode in the State for at least thirty days before the date of application;

(6) other information required by the department to determine if the application meets all statutory requirements for the license or permit and to determine the true owners of the business seeking the license or permit.

**SECTION 61‑2‑100.** Persons entitled to be licensees or permittees.

(A) The department may issue licenses and permits authorized under this title to qualifying persons. Licenses and permits may be issued only to the person who is the owner of the business seeking the permit or license.

(B) The department shall initiate action to revoke any permit or license that is issued to any person who is not the owner of the licensed business or when the licensed individual or an individual principal of the licensed business is under twenty‑one years of age.

(C) If application is made for a license or permit under this title by a person other than an individual, all principals are deemed to be the applicant under Section 61‑2‑160.

(D) The department may not issue a license or permit under this title to any person unless the person and all principals are of good moral character.

(E) The department may not issue a license or permit under this title to an individual under twenty‑one years of age or a business with an individual principal under twenty‑one years of age.

(F) Businesses licensed or permitted by the department under this title must designate with the department an agent and mailing address for service of notices. Any required notice may be given by handing it to the agent in person or leaving the notice at his office with a clerk or other person in charge of the office, or if there is no one in charge, leaving it in a conspicuous place in the office; or, if the office is closed or the person to be served has no office, leaving a copy at his dwelling place with a person of suitable age and discretion residing in the dwelling place; or by serving it on an employee at the licensed place of business; or by mailing it by first class mail to the agent at his last known address, postage prepaid. No person may act as agent for more than one business entity unless the person has an ownership interest in the business entities.

(G) Nothing in this section may be construed to alter the effect of Sections 61‑6‑140 and 61‑6‑150.

(H) As used in this title and unless otherwise required by the context:

(1) “Person” includes an individual, a trust, estate, partnership, limited liability company, receiver, association, company, corporation, or any other group.

(2) “Principal” of a business or entity means a person who is described in any one or more of the following terms:

(a) an officer of the business or entity which owns the business;

(b) a partner other than a limited partner who cannot exercise any management control;

(c) a manager of the limited liability company which is managed by managers;

(d) a member of the limited liability company which is not managed by managers;

(e) a fiduciary, including personal representatives, trustees, guardians, committees, and receivers, who manage, hold, or control title to or who is otherwise in direct or indirect control of the business;

(f) a person who owns twenty‑five percent or more of the combined voting power of the business or entity;

(g) a person who owns twenty‑five percent or more of the value of the business entity; or

(h) an employee who has day‑to‑day operational management responsibilities for the business or entity.

(i) a license or permit may be issued to a publicly held corporation, which is deemed the applicant under Section 61‑2‑160 and the corporation shall designate an officer or other employee of good moral character, over the age of twenty‑one and a resident of this State in whose name the permit or license must be held on behalf of the corporation and the corporation may substitute an officer or employee if the individual is of good moral character, over the age of twenty‑one, and a resident of this State, and upon notice in writing of the substitution to the department.

(I) The department may not issue a wholesale beer and wine permit pursuant to this title unless the applicant is a legal resident of the United States and has been a legal resident of this State and has maintained his principal place of abode in this State for at least thirty days before the date of the application.

(J) A misstatement or concealment of fact on an application for a license or permit pursuant to this title is sufficient grounds for the department to deny the application and to revoke a license or permit issued based on an application containing a misstatement or concealment of fact.

**SECTION 61‑2‑105.** Inspection, investigation, and enforcement fees.

Notwithstanding another provision of law, all initial alcoholic liquor and beer and wine license application fees are increased by one hundred dollars, all biennial alcoholic liquor and beer and wine beverage fees and licenses are increased by two hundred dollars, and all local operation permit fees are increased by fifty dollars. These additional funds must be collected by the Department of Revenue and as soon as practicable allocated to the State Law Enforcement Division to offset the costs of inspections, investigations, and enforcement. SLED is authorized to receive, expend, and carry forward these funds.

**SECTION 61‑2‑110.** Payment of fees by check.

The department must accept checks, in addition to any other method of payment it considers appropriate, in payment of the fees due for a license or permit. If the check is dishonored, the department may suspend the license or permit without notice or a hearing until the applicant makes the payment in a form satisfactory to the department and pays a reinstatement fee of fifty dollars. The department may retain the reinstatement fee in order to offset the cost of this provision.

**SECTION 61‑2‑120.** Biennial license and permit expiration dates.

Biennial licenses and permits issued under this title expire according to the county where the licensed location is situated. The expiration dates are the last day of:

(1) February in years which end in an:

(a) odd number for Allendale, Bamberg, Barnwell, Beaufort, and Berkeley Counties;

(b) even number for Charleston, Clarendon, Colleton, Dorchester, Georgetown, Hampton, Jasper, and Williamsburg Counties;

(2) May in years which end in an:

(a) odd number for Cherokee, Chester, Chesterfield, Darlington, Dillon, Fairfield, Florence, and Horry Counties;

(b) even number for Lancaster, Marion, Marlboro, Union, and York Counties;

(3) August in years which end in an:

(a) odd number for Calhoun, Kershaw, Lee, Orangeburg, and Sumter Counties;

(b) even number for Richland County;

(4) November in years which end in an:

(a) odd number for Abbeville, Aiken, Anderson, Edgefield, Greenville, and Greenwood Counties;

(b) even number for Laurens, Lexington, McCormick, Newberry, Oconee, Pickens, Saluda, and Spartanburg Counties.

**SECTION 61‑2‑130.** Biennial license and permit refunds.

If a biennial licensee or permittee under this title closes the licensed or permitted business for any reason during the first year of the biennial license or permit period, the licensee or permittee or his estate must be refunded the amount of the license or permit fee attributable to the second year of the biennial license or permit period. No licensee or permittee is eligible for a refund under the provisions of this section if the license or permit has been canceled, relinquished, or revoked as a result of an enforcement action or a failure to adhere to the conditions of the license or permit.

**SECTION 61‑2‑135.** Retention of liquor license when business moved within county.

When a person licensed to sell alcoholic liquor or beer and wine moves his business to a new location in the same county that was licensed in the same manner within ninety days of the time of the move, the person may use his current license and is not required to initiate a new application upon approval by the department.

**SECTION 61‑2‑136.** Relocation of licensed beer, wine, or liquor wholesale business.

Notwithstanding another provision of law, a currently licensed beer and wine wholesaler or currently licensed alcoholic liquor wholesaler who wishes to relocate the licensed business to a new location within the State must notify the department. This notice must be in writing, must precisely describe the premises to be licensed, must give the date of the move, and must be filed with the department at least thirty days prior to the move. Upon receipt of this notice, the department shall transfer the permit to the new premises effective on the date of the move.

**SECTION 61‑2‑140.** Suspension or revocation of licenses and permits.

(A) A person promptly must surrender a license or permit issued under the provisions of this title upon request of the department.

(B) Licenses and permits are the property of the department and are not transferable. Licenses and permits must be surrendered immediately to the department upon the termination of a business, upon a change of ownership, possession, or control of a corporation or business entity, or upon a change in the character of the property, facilities, or nature of the business activity for which a license or permit has been issued. The transfer of twenty‑five percent or more of corporate stock is considered a change in ownership.

(C) Licenses and permits must be issued for a designated location and may not be transferred to another location. A separate license or permit is required for each separate location of a business.

(D) When a license or permit is suspended or revoked, no partner or person with a financial interest in the business may be issued a license or permit for the premises concerned. No person within the second degree of kinship to a person whose license or permit is suspended or revoked may be issued a license or permit for the premises concerned for a period of one year after the date of suspension or revocation.

(E) A person whose license or permit has been suspended or revoked for a particular premises is not eligible to receive an additional new license or permit at another location during the period the suspension or revocation is in effect, and the department may suspend or revoke all other licenses or permits held by the person if the suspended or revoked premises is within close proximity.

**SECTION 61‑2‑150.** Subsequent tenants.

If a fine is imposed by the department for a violation by a beer, wine or liquor licensee, and the licensee fails to pay the fine and ceases doing business on the premises where the violation occurred, the department must not require a subsequent tenant of the premises to pay the fine as a condition to being issued a beer, wine, or liquor license. However, this prohibition does not apply to any person who is related by blood within the third degree or marriage to, is in business with, or is acting for or on behalf of, directly or indirectly, the licensee so fined.

The burden is on the new tenant to prove that no such relationship exists between him and the licensee.

**SECTION 61‑2‑160.** Issuance, renewal, or transfer of license; delinquent taxes.

A license or permit pursuant to the provisions of this title must not be issued, renewed, or transferred unless the department determines that the applicant does not owe the State delinquent taxes, penalties, or interest. If the department determines that delinquent taxes, penalties, or interest are due, the department shall notify the applicant of the necessary requirements to comply with this section.

**SECTION 61‑2‑170.** Drive‑through or curb service of alcoholic beverages.

The department may not generate license fees to be deposited in the general fund of the State through the issuance of licenses or permits for on or off premises consumption which authorize alcoholic liquors, beer, or wine to be sold on a drive‑through or curb service basis.

**SECTION 61‑2‑175.** Foreign person or corporate entity shipping alcoholic beverages to resident not holding valid license; cease and desist order; penalties.

(A) Any person or corporate entity (including partnerships) located in another state or country who knowingly and intentionally ships, causes to be shipped, or accepts for shipment any beer, wine, or alcoholic liquors directly to any resident of this State who does not hold a valid producer’s, manufacturer’s, wholesaler’s, or special food manufacturer’s license or producer representative’s certificate of registration issued by the State of South Carolina is in violation of this title.

(B) Any person, corporation, or partnership found by the department to be in violation of subsection (A) of this section shall be issued a notice to cease and desist. Any person, corporation, or partnership who, after receiving a cease and desist order, is found by the department to be in violation of subsection (A) of this section for a second or subsequent occurrence within a two‑year period of the first violation is guilty of a misdemeanor and, upon conviction, must be punished by a fine not to exceed $10,000. This subsection shall not apply to any person, corporation, or partnership who has registered brands for sale with the department pursuant to this title and who has current licenses and who has posted adequate surety bonds as required by this title; however, violations of subsection (A) constitute grounds for the department to take appropriate administrative action against the person, including suspension or cancellation of license and forfeiture of bonds.

**SECTION 61‑2‑180.** Bingo, raffles, and other special events.

Notwithstanding any other provision of law, a person or organization licensed by the department under this title may hold and advertise special events such as bingo, raffles, and other similar activities intended to raise money for charitable purposes. This section does not affect the requirements for obtaining a bingo license from the department.

**SECTION 61‑2‑190.** Warrantless arrests.

A person detected in the act of violating any provision of this title may be arrested without warrant if a warrant is procured within a reasonable time thereafter.

**SECTION 61‑2‑200.** Summons.

There shall be one official summons which may be used by all agents and inspectors of the division when making arrests for violations of the laws and regulations governing alcoholic liquors, beer, and wine in offenses for which the magistrate’s court has jurisdiction. The division must prescribe the form of the summons and print copies.

**SECTION 61‑2‑210.** Jurisdiction of magistrates court.

When a person is charged by an agent or inspector of the division with a criminal offense for which a magistrate’s court has jurisdiction, the person charged, upon being served with the official summons issued by the agent or inspector, must appear before the proper judicial officer at the time and place stated in the summons. The service of the summons vests the court with jurisdiction to hear and dispose of the charge for which the summons was issued.

**SECTION 61‑2‑220.** Affidavit for search warrant.

When this title provides that a search warrant may be issued upon an affidavit based on information and belief, the affidavit must contain a statement setting forth the sources of information and the facts and grounds of belief upon which the affiant bases his belief.

**SECTION 61‑2‑230.** Suspension of constable or magistrate.

A constable, deputy constable, or magistrate who neglects or refuses to perform the duties required by this title may be suspended by the Governor.

**SECTION 61‑2‑240.** Interference with officer; abusive language.

Interference by any person with, obstruction or resistance of, or abusive language to any officer or person in the discharge of his duties under this title or the use of abusive language by the officer or person to another person is a misdemeanor. A person who violates this section must, upon conviction, be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not less than three months nor more than one year.

**SECTION 61‑2‑250.** Sentencing.

In cases of conviction for the violation of a provision of this title when no punishment is provided, the person must be fined not less than one hundred dollars or imprisoned not less than three months, in the discretion of the court.

**SECTION 61‑2‑260.** Contested case hearings.

Contested case hearings arising under the provisions of this title must be heard by the Administrative Law Court pursuant to the South Carolina Revenue Procedures Act and the Administrative Procedures Act.