

CHAPTER 7

Alcoholic Beverages, Beer and Wine

(Statutory Authority: 1976 Code §§ 12-4-320 and 61-2-60)

ARTICLE 6 GENERAL PROVISIONS

7-200. General Provisions.

Title 61 of the South Carolina Code of Laws concerns the regulation of alcoholic liquor, beer and wine in the State of South Carolina. The following subsections address various general provisions applicable to the regulation of all alcoholic beverages.

7-200.1. Applications.

A. Filing fees. All applications filed with the South Carolina Department of Revenue must be accompanied by the appropriate filing fee before any application can be processed.

B. Contents of application. All applications shall describe with particularity the specific areas upon which the licensee shall store, sell and/or serve liquor, beer or wine. This description shall include but not be limited to the building or buildings affected, floors, rooms, patios, and recreation areas where authorization to conduct any of the above mentioned functions is requested.

C. Permits and licenses must be in same name. When a person applies for a beer and wine permit and/or a sale and consumption permit, a retail liquor store license, and/or a food preparation license, all permits and licenses must be applied for in the same name.

D. Change in Designee - Publicly Traded Corporation. A new license or permit is not necessary, provided no violations are pending, if the officer or employee designated to hold the permit or license on behalf of the publicly traded corporation is replaced by a different officer or employee. The replacement must be of good moral character, over the age of twenty-one and a resident of this State and notice of the substitution must be filed with the Department in writing.

E. Violation of license. A licensee or permittee, who permits or knowingly allows the storage, serving, sale or delivery of liquor, beer or wine in or upon those areas of this licensed establishment which were not specifically designated in the application shall be deemed to have violated said license or permit; provided, however, this regulation shall not be construed to prohibit the delivery of such containers within licensed hotels and motels to rooms which are leased and used primarily for lodging purposes.

F. In order to hold any retail alcoholic beverage permit or license under Title 61 of the South Carolina Code of Laws, the applicant, or holder of a retail alcoholic beverage permit or license, must obtain and maintain a retail sales tax license issued pursuant to Chapter 36 of Title 12 of the South Carolina Code of Laws. If the retail sales tax license of a location is revoked, canceled or otherwise terminated for any reason, the Department must cancel, suspend or revoke all retail alcoholic beverage permits or licenses issued for that location if such permits or licenses are not immediately surrendered to the Department at the time the retail sales tax license for the location is revoked, canceled or otherwise terminated.

G. Retail Liquor Dealers. Must procure permit. Every holder of a retail liquor license in this State must make application for and procure from the Department a permit to sell alcoholic beverages in sealed containers of two (2) ounces or less before any such sale is made. This permit will be issued by the Department free of charge. Any holder of a retail liquor license will be in violation of Title 61 of the 1976 Code, if such sales are made prior to obtaining this permit from the Department.

H. Partnership—Change to Corporation Must Have New Permit. A permit or a license is a personal privilege granted by the State and cannot be transferred from one person to another. A corporation is a distinct entity, and is as a matter of law, a person. Therefore, if a partnership holding a beer license incorporates, even though the stockholders are the same persons as the partners were, a new permit or license must be secured for the corporation.

I. Stipulations. Any written stipulation and/or agreement which is voluntarily entered into by an applicant for a permit or license between the applicant and the Department, if accepted by the Department, will be incorporated into the basic requirements for the enjoyment and privilege of obtaining and retaining the permit or license and shall have the same effect as any and all laws and any and all other regulations pertaining to the permit or license. Knowing violation of the terms of the stipulation or agreement shall constitute sufficient grounds to revoke said license.

J. Refund on Permit Applications. When an application for a permit or license is approved by the Department and is not used, a request for the refund of the permit or license fee must be received by the Department within the fiscal year for which the permit was issued, and in no event will a refund of an application fee be made unless a request is received by the Department within sixty (60) days of the date the permit was issued. An agent of the Department or the State Law Enforcement Division must verify in writing that the permit was not used.

7-200.2. Records.

Every holder of a permit or license issued by the Department must keep and maintain at some location within the state records of all purchases of liquor, beer and wine. Such records must include the name of the seller and the date and quantity of the purchase. These reports of purchases must be kept for a period of three (3) years and upon ten days notice must be made available to the inspection of any authorized representative of the Department or the State Law Enforcement Division.

7-200.3. Display of Permits and Licenses.

The holder of a permit or a license shall display such license in a conspicuous place upon the premises; however, the license required by Section 61-6-700 shall be conspicuously displayed in the area in which the wines, liqueurs, and similar alcoholic beverages are used in the cooking and preparation of foods.

7-200.4. Person Under 21—Violation to Allow Possession and Consumption of Alcoholic Liquors, or Possession and Consumption of Beer or Wine, on Premises.

To permit or knowingly allow a person under twenty-one year of age to purchase or possess or consume alcoholic liquors, beer or wine in or on a licensed place of business which holds a license or permit issued by the Department is prohibited and constitutes a violation against the license or permit. Such violation shall be sufficient cause to suspend or revoke the license or permit by the Department.

7-200.5. Signs Required Under Section 61-4-70 and 61-6-1530; Size and Lettering.

The lettering on the signs required under Section 61-4-70 and 61-6-1530 shall be no smaller than one-half inch and the sign shall be posted in a conspicuous place behind the bar if the permit or license is for on-premise consumption or at the check-out counter if the permit or license is for off-premise consumption. Failure to post this sign in a proper manner shall constitute a violation against the permit or license.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003. Amended by State Register Volume 30, Issue No. 2, eff February 24, 2006; State Register Volume 30, Issue No. 6, eff June 23, 2006.

7-201. Requirements for Protesting Beer and Wine Permits or Alcoholic Liquor Licenses.

Code Sections 61-4-525, 61-6-185 and 61-6-1825 set forth the requirements a person must follow when protesting the issuance or renewal of a beer and wine permit, retail liquor store license and a liquor by the drink license.

The following will address these requirements:

1. Q. Who may protest the issuance or renewal of a beer and wine permit or an alcoholic liquor license?

A. Any person who:

1. resides in the county in which the permit or license is requested to be granted; or
2. resides within five miles of the location for which the permit or license is requested

may protest the issuance or renewal of a beer and wine permit or an alcoholic liquor license.

2. Q. Is the protest required to be in writing?

A. Yes.

3. Q. Where is the protest mailed?

A. All protests must be mailed to:

SC Department of Revenue

ABL Licensing Section - Protest

P.O. Box 125

Columbia, South Carolina 29214

A protest concerning the issuance of a new permit or license must be mailed to the Department and postmarked on or before the date set forth in the "Notice of Application" published in the newspaper or the "Notice" posted at the site. If a valid protest is received with respect to the issuance of a new permit or license, the new permit or license will not be issued until the protest is resolved and the determination is made that the permit or license must be issued.

Since renewal notices are mailed to permittees and licensees sixty days before the existing license or permit expires, a protest concerning the renewal of an existing permit or license must be filed with the Department at least sixty days prior to the expiration of the existing permit or license. However, an exception will be made and a protest will be considered timely if the protest is received by the ABL Licensing Section after the renewal notice has been mailed but before the renewal permit or license has been issued. If a valid and timely protest is received by the Department with respect to the renewal of a permit or license and the permittee or licensee made a timely and sufficient application for the renewal, the existing permit or license of the permittee or licensee does not expire until the application has been finally determined by the Department, and, in case the application is denied, until the last day for seeking review of the Department's final agency determination or a later date fixed by order of the reviewing court. (See Code Section 1-23-370(b).)

4. Q. What information must the protest contain?

A. A protest must contain the following information:

1. the name, address, and telephone number of the person filing the protest;
2. the name of the applicant for the permit or license and the address of the premises sought to be licensed, or the name and address of the permit or license holder if the application is for renewal;
3. the specific reasons why the application should be denied; and
4. a statement by the person protesting the application as to whether or not he or she wishes to attend a contested case hearing before the Administrative Law Court. Important: If the protest states that the protestant does not wish to attend a contested case hearing before the Administrative Law Court, then the protest is invalid and the Department must continue to process the application and must issue the permit or license if all other statutory requirements are met. See Question #6 below.

Note: If the protestant does not reside in the same county in which the permit or license is requested, then the protestant must state that he or she lives within five miles of the location for which a permit or license is requested.

5. Q. If a protest does not contain all of the above information, is the protest a valid protest?

A. No. The protest is invalid and the Department must continue to process the application and must issue the permit or license if all other statutory requirements are met.

6. Q. If the protest states that the protestant does not wish to attend a contested case hearing before the Administrative Law Court, is the protest valid?

A. No. The protest is invalid and the Department must continue to process the application and must issue the permit or license if all other statutory requirements are met.

7. Q. If the protest states that the protestant wishes to attend a contested case hearing before the Administrative Law Court, is the protest valid?

A. Yes, provided the protest contains all the information listed in the answer to Question #4 and the Department has determined, via letter, e-mail, fax or some other method, that the protestant does intend to attend the contested case hearing and offer testimony before the Administrative Law Court.

8. Q. If the protestant advised the Department of his or her intention to attend the contested case hearing before the Administrative Law Court, but does not attend the hearing, what are the consequences for not attending the hearing?

A. A person who files a protest and fails to appear at a hearing after affirming a desire to attend the hearing may be assessed by the Administrative Law Court a fine or penalty to include court costs.

9. Q. Does the Department publish a form that can be used to protest the issuance or renewal of a permit or license?

A. Yes, Form ABL-20 can be used to protest the issuance or renewal of a permit or license and can be obtained at the offices of the Department or at the Department's website (www.sctax.org). However, please note that this form is not required. Any letter containing the information required by the law, as discussed in this regulation, is sufficient to constitute a valid protest provided the protestant affirms to the Department a desire to attend the hearing before the Administrative Law Court.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003. Amended by State Register Volume 31, Issue No. 7, eff July 27, 2007.

7-202. Premises.

The following provisions apply with respect to licenses issued pursuant to Title 61. The purpose of these provisions is the determination of the extent of the physical place where a business or entity that has been approved to hold a license undertakes the privileges and responsibilities associated with that license. Eligibility to hold such licenses is outside the scope of these provisions, except with respect to licenses for satellite facilities as provided in Section 7-202.2.D.

7-202.1. General Requirements - All Licenses.

A. Unless otherwise limited by statute or regulation, as used in Title 61, "premises" means all of the buildings and grounds that are both (1) subject to the direct control of the license holder and (2) used by the license holder to conduct its business.

B. For purposes of establishing the premises:

(1) The license holder's direct control of buildings and grounds may be shown by any of the following: (a) a deed or lease conveying to the license holder an appropriate interest that includes the premises; (b) a writing from a local governmental jurisdiction giving the license holder the right to use and the duty to maintain an area owned or controlled by the local governmental jurisdiction; (c) an enforceable written contract granting the license holder a right to use the premises.

(2) A presumption arises that the buildings and grounds described with particularity in the license application, as required by Regulation 7-200.1(B), are used by the license holder to conduct its business.

(3) The premises in its entirety, or any area within the premises, may be subject to conditions or restrictions or both imposed pursuant to Code Section 61-2-80.

(4) The premises for which a license is held may include more than one tract of land or building, unless otherwise limited by statute or regulation. For more than one tract of land to be included in the licensed premises, the tracts must be contiguous. For more than one building to be included in the licensed premises, all buildings must be situated on the same tract of land or contiguous tracts of land.

(5) The premises for which a license is held must be a separate designated location of a business in accordance with Code Section 61-2-140(C). Two or more licenses of the same type must not be issued for the same premises, except as provided in Section 7-202.2.D.

(6) As provided in Code Section 61-2-140(C), a separate license is required for each separate location of a business. The Department will determine whether separate licenses are required using factors including but not limited to (a) whether the business operates at more than one street

address; (b) the number of retail sales tax licenses required; (c) whether the public would perceive the business to be operating at one location or at more than one location; and (d) whether there is one location or more than one location of the same business under one roof, based on factors including, but not limited to, entrances, utilities, employees, HVAC systems, public perception, lease contracts, and partitioning as the result of walls, common areas and areas set aside for the conduct of other enterprises, whether unlicensed or separately licensed.

7-202.2. Specific Facilities - Alcoholic Liquor by the Drink.

A. In addition to the provisions of Regulations 7-202 and 7-202.1 (unless otherwise limited or restricted) the premises for licenses for alcoholic liquor by the drink for on-premises consumption for the following specific facilities include the criteria below.

B. Golf courses: All of the buildings and grounds of a golf course that are under the direct control of a license holder located at a golf course are presumed to be used by the license holder to conduct its business, including but not limited to the land on which the course is laid out for the playing of the game, the golf cart rentals area, the food and beverage service areas, and the pro shop or other retail space.

C. Fishing piers: A fishing pier, including the entire length and width of the pier, under the exclusive and direct control of a license holder is presumed to be used by the license holder to conduct its business.

D.(1) Resort Complexes: For purposes of determining the premises of a resort complex, a presumption arises that all buildings and grounds within the resort complex tract are used in the resort complex license holder's business.

(2) A "resort complex" must be an enterprise that meets all of the following criteria:

(a) Either as a single business or a group of businesses under identical ownership, the enterprise must operate facilities that include, at a minimum, the following: (i) "furnishing lodging" as defined in Code Section 61-6-20(4) and (ii) being "bona fide engaged primarily and substantially in the preparation and serving of meals" as defined in Code Sections 61-6-20(2) and 61-6-1610 and (iii) providing a substantial recreational facility.

(b) One of the facilities described in item (a) above must operate under a license to serve alcoholic liquor by the drink issued under Code Section 61-6-1610. The license holder for such facility shall be designated as the "resort complex license holder." The first held license will be known as the "primary resort complex license."

(c) The recreational facility described in item (a) above must operate solely within the resort complex tract. "Resort complex tract" means either a single tract of land or contiguous tracts of land (without regard to whether the contiguous space is interrupted by any intervening dedicated road or public right-of-way) which must be under the direct control of the enterprise.

(3) The resort complex license holder may obtain licenses for satellite facilities in the resort complex tract if the following conditions are met:

(a) The resort complex license holder and the satellite facility must be under identical ownership and control.

(b) The application for a satellite facility license must contain the name of the resort complex license holder, the date the primary resort complex license was issued, and any other information required by the Department.

(c) All satellite facilities must meet the distance requirements set forth in Code Section 61-6-120.

(d) The resort complex license holder and all satellite facilities, when viewed together, must maintain the character of a business that is engaged primarily and substantially in the preparation and serving of meals or furnishing lodging in accordance with Code Sections 61-6-20(2) and 61-6-1610 or with Code Section 61-6-20(4).

(e) In acquiring a license for any satellite facility, the resort complex license holder must agree to the following conditions: (i) any suspension or revocation of any resort complex license will result in suspension or revocation of all resort complex licenses; and (ii) termination of the primary resort complex license will result in termination of all satellite facility licenses. "Resort

complex license” means any license issued for a facility located on the resort complex tract, whether the primary resort complex license or a satellite facility license.

7-202.3. Restrictions on the Premises of Nonprofit Organizations Licensed to Sell Alcoholic Liquor by the Drink.

A. The premises of a nonprofit organization must be separate from the premises of any business operation, including business establishments licensed to sell alcoholic liquor by the drink.

B. The premises of a nonprofit organization will be deemed separate if the organization has its own address and separate entrance, and is not connected with another business premises by common doorways or passageways, whether interior or exterior.

HISTORY: Added by State Register Volume 34, Issue No. 7, eff July 23, 2010.

**ARTICLE 7
ALCOHOLIC LIQUORS**

**SUBARTICLE 1
GENERAL PROVISIONS APPLICABLE TO ALCOHOLIC LIQUORS**

7-300. Purchases, Transfers and Deliveries to and from Retail Locations.

This regulation concerns the purchases, transfers, and deliveries of alcoholic liquors to and from locations licensed to sell alcoholic liquors.

7-300.1. Deliveries by Wholesaler to Licensed Retailer Only.

A wholesaler may deliver alcoholic liquors to a licensed dealer only. Delivery may be made only in vehicle owned and operated by the wholesaler, or by a common carrier, but in no other way; and delivery may be made only at the licensed premises of the purchaser.

7-300.2. Purchases by Retail Dealer from Licensed Wholesaler Only; Purchases for Exclusive Use Prohibited.

No retail liquor dealer shall be permitted to purchase any alcoholic liquors except from a licensed wholesale dealer in this State. The purchase, or negotiation for purchase, of alcoholic liquors from without the State by a retail dealer is strictly forbidden. No wholesale liquor dealer shall be permitted to purchase alcoholic liquors for the exclusive use of any retailer.

7-300.3. Dishonored Checks to Wholesalers.

As Section 61-6-940 requires the retail liquor license to be revoked when such licensee is indebted to a licensed wholesale liquor dealer, the giving of a check which is dishonored by the bank is in violation of this Section of the Code.

Upon receipt by a wholesaler of such a dishonored check, the wholesaler must notify all the other licensed wholesalers that the particular licensee is in violation of the law, and all licensed wholesalers must put the individual licensee on a cash only basis.

7-300.4. Transfers of Alcoholic Liquor Between Retail Stores.

(A) No alcoholic liquors may be transferred from one retail liquor location to any other retail liquor location without special permission in advance of the South Carolina Department of Revenue, provided, however, that where the same person holds more than one retail liquor license, liquor may be transferred from one of such person’s licensed locations to another of that person’s licensed locations without prior permission from the Department subject to the following conditions:

- (a) The transfer is made by common carrier, or
- (b) A licensed wholesaler’s truck, or
- (c) By vehicle owned and operated by the licensee;
- (d) All transfers must be properly documented in the form of an invoice in triplicate, as follows:
 - (1) Showing the number of the store license from which transfer is to be made and the number of the store license to which transfer is to be made, and
 - (2) The brand, size, and quantity to be transferred,
 - (3) The date the transfer is to be made.

(B) A copy of the invoice must, prior to the transfer, be mailed to the Department. A copy of the invoice must be in the possession of the driver until delivery is complete, and then retained by the store to which transfer is made. A third copy of the invoice must be retained by the store from which the transfer is made.

For any violation of the foregoing, the Department may either suspend or revoke the retail licenses of the dealers involved or impose monetary penalty upon the holders thereof within the limits prescribed by law.

7-300.5. Liquor Not to be Removed During Restricted Hours.

No licensed liquor dealer shall remove, or permit the removal of, alcoholic liquors from his licensed place of business during the hours such business is required to be closed.

7-300.6. Credit Cards Allowed for the Purchase of Liquor.

The use of bank or other credit cards for the purchase of Alcoholic Liquors is approved by the Department, provided the issuing bank or other organization guarantees payment of the instrument representing a purchase through the credit card plan immediately upon presentation by the merchant. Any card plan which in any way has recourse upon the dealer is not approved.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

7-301. Restrictions.

This regulation concerns various restrictions that are applicable to liquor wholesalers, liquor retailers or both. The restrictions listed in the following subsections are not all inclusive.

7-301.1. Retail License by Wholesaler Prohibited—No Interest in Retail Store.

No license for the operation of a retail store shall be issued to any employee of a wholesaler, nor shall such employee be permitted to have any interest, directly or indirectly, in any retail store.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

7-302. Underage Violations—Multiple Offenses.

Whenever a licensed retail liquor dealer has been found by the South Carolina Department of Revenue to have sold alcoholic liquors to a person under the age of twenty-one years or permitted the sale of alcoholic liquors to a person under the age of twenty-one years four (4) or more times within three (3) years, the retail liquor license shall be suspended or revoked and no monetary penalty will be accepted in lieu of suspension of revocations.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

7-303. Measurements from Location to School, Church or Playground.

Section 61-6-120, provide that a retail liquor license or a possession and consumption license may not be granted if the place of business is within three hundred feet of any church, school, or playground situated within a municipality, or within five hundred feet of any church, school, or playground situated outside of a municipality. This Regulation is for the purpose of further clarifying the distance and how it shall be measured.

With respect to a church or a school, the distance shall be measured from the nearest entrance of the place of business by following the shortest route of ordinary pedestrian or vehicular travel along the public thoroughfare to the nearest point of entrance to the grounds of the church or school, or any building in which religious services or school classes are held, whichever is the closer. The South Carolina Department of Revenue has determined that the grounds in use as part of the church or school is restricted to the grounds immediately surrounding the building or buildings which provide ingress or egress to such building or buildings and does not extend to the grounds surrounding the church which may be used for beautification, cemeteries, or any purpose other than such part of the land as is necessary to leave the public thoroughfare and to enter or leave such building or buildings. Only one entrance to the grounds of a church or school shall be considered, to wit: the entrance to the grounds nearest an entrance to the church or school building. Where no fence is involved, the nearest entrance to the grounds shall be in a straight line from the public thoroughfare to the nearest door. The nearest point of the grounds in use as part of a playground shall be limited to the grounds

actually in use as a playground and the grounds necessary for ingress or egress to such grounds from the public thoroughfare.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

SUBARTICLE 2 MINIBOTTLES

7-400. Definitions.

A. Private residence. The term “private residence” shall mean a domestic establishment, home, or dwelling place wherein one resides, actually lives, lodges or abides and shall include places of temporary lodging or abode.

B. Hotel room. The term “hotel room” shall mean any room of a hotel that is customarily rented or leased and is used primarily for lodging purposes.

C. Motel room. The term “motel room” shall mean any room of a motel that is customarily rented or leased and is used primarily for lodging purposes.

D. Luggage compartment. The term “luggage compartment” shall mean the trunk of a motor vehicle which possesses such; however, with respect to a motor vehicle which does not contain a trunk, the term “luggage compartment” shall refer to the area of the motor vehicle in which the manufacturer designed that luggage be carried or to the area of the motor vehicle in which luggage is customarily carried. In regard to a station wagon, sport utility vehicle, minivan or similar vehicle, the term “luggage compartment” shall refer to the area behind the last seat. In regards to a motorcycle, the term “luggage compartment” shall refer to the saddlebags.

E. Cargo area. The term “cargo area” shall mean the area without and behind the cab of a truck which is designed by the manufacturer for the boarding of goods or materials or the area without and behind the cab of a truck which is customarily used for the boarding of goods or materials.

F. Glove compartment. A glove compartment shall not constitute either a luggage compartment or a cargo area.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

7-401. Requirements for Premises.

This regulation concerns various requirements a retail location must meet in order to be licensed to sell minibottles for on-premise consumption. The requirements listed in the following subsections are not all inclusive.

7-401.1. [Reserved]

7-401.2. Lighting of Licensed Establishments.

Every establishment licensed for the sale and consumption of alcoholic beverages in sealed containers of two (2) ounces or less, must have the bar or area used for storing and dispensing such containers properly lighted. The lighting must be sufficient to afford customers a clear view of all activities taking place in this area.

7-401.3. Restaurants.

A. Any business establishment that applies for or holds a sale and consumption license pursuant to Section 61-6-1610 of the Code and is not engaged in the furnishing of lodging, must:

1. Be equipped with a kitchen that is utilized for the cooking, preparation, and serving of meals; and

2. Have readily available to its guests and patrons either “menus” with the listings of the various meals offered for service or a listing of available meals and foods, posted in a conspicuous place readily discernible by the guest or patrons; and

3. Prepare for service to customers hot meals at least once each day the business establishment chooses to be open.

4. If such establishment advertises, a substantial portion of its advertising must be devoted to its food services.

B. The following definitions shall be used in conjunction with Section 61–6–1610 of the Code and this Regulation:

1. “Meal” means an assortment of various prepared foods which shall be available to guests on the licensed premises during the normal “mealtimes” which occur when the licensed business establishment is open to the public. Sandwiches, boiled eggs, sausages and other snacks prepared off the licensed premises but sold thereon, shall not constitute a meal.

2. “Kitchen” means a separate and distinct area of the business establishment that is used solely for the preparation, serving and disposal of solid foods that make up meals. Such area must be adequately equipped for the cooking and serving of solid foods, and the storage of same, and must include at least twenty-one cubic feet of refrigerated space for food and a stove.

3. “Primarily” means that the serving of meals by a business establishment constitutes a regular and substantial source of business to the licensed establishment and that meals shall be served upon the demand of guests and patrons during the normal “mealtimes” which occur when the licensed business establishment is open to the public and that an adequate supply of food is present on the licensed premises to meet such demand.

7–401.4. Nonprofit Organizations.

A. Every initial and/or renewal application for a Sale and Consumption of Alcoholic Liquors License to a bona fide nonprofit organization shall be an association, organization or a nonprofit corporation organized and existing under the laws of the State of South Carolina and operated solely and exclusively for social, benevolent, patriotic, recreational or fraternal purposes but not for pecuniary gain or profit, no part of the net earnings of which inures to the direct benefit of any member or shareholder, it being the intent of Section 61–6–1600 of the Code that a license shall not be granted to or held by an organization which is, or has been, organized and operated primarily to obtain or hold a license to sell alcoholic beverages, but only to a bona fide nonprofit organization with limited membership to which the sale of alcoholic beverages is incidental to the main purpose of the organization.

B. The bona fide nonprofit organization must have a definite fixed method of electing persons on an individual basis to membership in the organization; such method must be described in the club’s bylaws and must bear some reasonable relation to the object and purpose of the organization.

C. It shall be maintained by its bona fide members through the payment of monthly, quarterly or annual fees or dues.

D. The affairs and management of such nonprofit organization shall be conducted by a board of directors, executive committee or similar governing body chosen by the members at a regular meeting held at some periodic interval but at least on an annual basis. Provided, however, that nonprofit organizations operated for the benefit of universities and similar public institutions [IRS Code Section 501 (c) (3)] may be governed by a board or committee notwithstanding this provision as provided in the by-laws of the organization.

E. Upon dissolution, liquidation or final termination of the operations of the organization, its residual assets must not inure to the direct benefit of any member or shareholder but must be turned over to one or more nonprofit organizations which are organized and operated for charitable purposes or for such other purposes as are authorized under Section 61–6–1600.

F. No member, officer, agent or employee of such nonprofit organization shall be paid, or directly or indirectly receive, in the form of salary or other compensation any of the profit from the sale or distribution of alcoholic beverages beyond the amount of such salary as may be fixed and voted at a regular meeting by the members of the organization or at a regular meeting by the governing body out of the general revenue of the organization, nor shall such salaries or compensation be in excess of reasonable compensation for the services actually performed.

G. Each nonprofit organization shall file with its application for a license the following information:

(1) A certified copy of its charter, articles of incorporation or constitution;

(2) A copy of its bylaws;

(3) A list of its officers and directors showing names, ages, correct mailing addresses and business employment.

H. After receiving a license, each organization shall file the following information with the Department:

(1) Changes in the board of directors, executive committee or similar governing body shall be reported within thirty days of the effective date of such change;

(2) Changes in the organization's constitution, articles of incorporation, bylaws and membership effected during the preceding twelve (12) months must be filed with each application for license renewal;

(3) A financial statement and a profit and loss statement for the latest calendar year or fiscal year, as the case may be, must be filed with each application for license renewal;

(4) A sworn statement by an authorized officer of the organization that it is still being operated on a nonprofit and limited membership basis.

I. Licensees under this section shall maintain the following records on their premises and make them available for inspection by any authorized representative of the South Carolina Department of Revenue or the State Law Enforcement Division:

(1) A complete membership record showing the date of application of the proposed member, the date of admission after election, the date initiation fees and dues are paid, the amounts paid and the member's correct mailing address.

(2) All books and records relating to the financial transactions and activities of the licensee, including an income record, expenditure record and bank account all to be maintained in such form as is established by regulation of the Commission.

J. Only bona fide members and bona fide guests of members of such organizations may consume alcoholic beverages sold in sealed containers of two ounces or less upon the licensed premises.

K. Bona fide guests shall be limited to those who accompany a member onto the premises or for whom the member has made prior arrangements with the management of the organization.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003. Amended by State Register Volume 34, Issue No. 7, eff July 23, 2010.

7-402. Purchases of Minibottles.

A. Purchase of Minibottles from Retail Liquor Dealers. In the event a Sale and Consumption of Alcoholic Liquors licensee pays a retail liquor dealer for purchases of liquor in containers of two ounces or less, or for purchases of wine, by check, said check must be honored by the bank upon its first presentation to the bank for collection. If said check is dishonored by the bank, the sale and consumption license will be subject to suspension or revocation, as a dishonored check by the licensee is a violation against his license.

B. Purchase from Retailers by Agents.

No person, partnership, association or corporation can act as the designated agent for the purchase of alcoholic beverages in sealed containers of two ounces or less from licensed liquor retailers for more than one person, business, or nonprofit organization holding sale and consumption licenses pursuant to Article 5 of Chapter 6 of Title 61 of the 1976 Code.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

7-403. Private Functions.

A. Lease must be written. When a separate and private area of an establishment is leased by a holder of a sale and consumption license to a specific individual or individuals for a function not open to the general public pursuant to Section 61-6-1620(B), the terms of the lease agreement shall be reduced to writing and a copy of that instrument shall be retained by the licensee upon the licensed premises.

B. Purchase, Delivery and Possession of Alcoholic Beverages. When a separate and private area of an establishment is leased by a specific individual or individuals for a function not open to the general public pursuant to Section 61-6-1620(B), the host or sponsor of said function, or the designated agent or representative of said host or sponsor must purchase and deliver to the leased area any alcoholic beverages to be possessed and consumed therein and must remain constantly in actual possession of these beverages until such time as the function is concluded, at which time all alcoholic beverages must

be removed from the leased area and taken to a location where they may be legally stored. Nothing contained herein shall prohibit the host or sponsor or his designated agent or representative from having other persons, whether employed by the licensee or employed by the host or his agent or representative, from mixing and serving alcoholic beverages belonging to the host of the party.

C. Termination of Lease. In the event that the area leased pursuant to Section 61-6-1620(B), is located upon the premises of an establishment holding either a sale and consumption license or a retail beer and wine permit, the lease agreement shall automatically terminate at two o'clock in the morning. To permit or knowingly allow the possession and consumption of any alcoholic beverages upon the premises of the establishment after two o'clock in the morning shall constitute a violation against the license or permit. Such violation shall constitute sufficient cause for the South Carolina Department of Revenue to revoke or suspend said license or permit.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

7-404. Destruction of Two-ounce Containers.

All holders of a license authorizing the sale and consumption of alcoholic beverages in sealed containers of two (2) ounces or less are required to destroy, as soon as reasonably possible, (1) all empty or partially empty containers of two (2) ounces or less, (2) all other beverage containers on which the seals have been broken, and (3) the contents of any partially empty alcoholic beverage containers of two (2) ounces or less, any of which shall have accumulated upon the licensed premises either from use or from any other source.

"Destroy", in terms of two (2) ounce containers, is defined as any breaking, crushing or smashing which prevents the possible re-use of these receptacles as containers of alcoholic beverages or the disposal of all empty two (2) ounce containers, and all two (2) ounce containers with broken seals, in an outside trash receptacle each business day.

"Destroying", in terms of the remaining contents of partially empty two (2) ounce containers and containers upon which the seal has been broken, is defined as the pouring out of such contents through a sewer, disposal, or similar type system so as to prevent any possible re-use.

"As soon as reasonably possible" is defined as immediately upon use, serving, or consumption of the contents, or as frequently thereafter as the business operation permits, but, in any event, not less than once each business day.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

SUBARTICLE 3 RETAIL LIQUOR STORES

7-500. Merchandise Other Than for Wines or Alcoholic Liquors Cannot be Advertised or Displayed.

Except as specifically authorized by statute, it is a violation to have an open container of beer, wine, or liquor in or on the premises of a licensed retail liquor store or to have a container of beer, wine or liquor with a broken seal in or on the premises of a licensed retail liquor store.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

7-501. Open Containers of Wine as Well as Alcoholic Liquors in Retail Liquor Stores.

The South Carolina Department of Revenue has determined that a violation has occurred against a retail liquor licensee if any wine as well as alcoholic liquors is found in containers in or on the licensed premises with the seal broken thereon and, therefore, will be subject to suspension, revocation or a monetary penalty placed thereon.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

SUBARTICLE 4 FOOD PREPARATION LICENSE

7-600. Definitions.

A. Foods. The term "foods" shall mean nutritive material taken into the body by means of eating and does not include liquids or drinks to which liqueurs or similar alcoholic beverages are added and served for consumption as beverages.

B. Similar Alcoholic Beverages. The term “similar alcoholic beverages” shall include liqueurs, brandies, cordials, and only such other related alcoholic beverages as are commonly used in the cooking and preparation of foods by establishments for service to the public.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

7-601. Storage and Inventory.

This regulation concerns the requirements for the storage of alcoholic liquors used in the preparation of food. This list of requirements is not all-inclusive.

7-601.1. Storage.

All liqueurs and similar alcoholic beverages in containers of more than two ounces which are possessed on the premises of an establishment pursuant to a food preparation license are to be locked in a cabinet, locker or similar compartment, located in the cooking area at all times except when physically being used in the preparation and cooking of foods.

7-601.2. Inventory.

No food preparation licensee shall possess on his premises any liqueurs or similar alcoholic beverages in containers of more than two (2) ounces to be used in the preparation of foods in excess of the amount necessary to meet normal usage requirements for a fifteen (15) day period.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

7-602. Violations.

A. Beverages to be used for Cooking Only. Any liqueurs or similar alcoholic beverages stored on the premises of a licensed establishment for cooking purposes shall be used solely and exclusively in the preparation of food for service to the public.

B. Sale and Consumption Prohibited. No liqueurs or similar alcoholic beverages stored on the premises of a licensed establishment for cooking purposes shall be sold in any quantity as a beverage or consumed as a beverage by the licensee, the management, staff and employees of the licensee, or any other person.

C. Other Alcoholic Beverages Prohibited. No alcoholic beverages in containers of more than two ounces shall be allowed on the premises of the licensed establishment except as provided by law.

D. Revocation. Any violation of these regulations or of any other regulations promulgated under the authority of Section 61-2-60, shall constitute grounds for the revocation of the food preparation license (and of any other license or permit the licensee may hold from the South Carolina Department of Revenue).

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

ARTICLE 8 BEER AND WINE

7-700. Repealed by State Register Volume 34, Issue No. 7, eff July 23, 2010.

7-701. Restrictions on Sales.

This regulation concerns the various restrictions on the sale and delivery of beer or wine. The restrictions listed in the following subsections are not all inclusive.

7-701.1. Beer Not to Exceed 5% Alcohol by Weight.

Beer, ale, porter or other similar malt beverages containing more than five percent (5%) of alcohol by weight cannot be distributed by wholesale beer and wine dealers or wholesale liquor dealers and cannot be treated as wine for tax purposes under the laws of the State of South Carolina.

7-701.2. USDA Food Stamps Not Accepted in Payment for Beer or Wine.

No holder of a permit authorizing the retail sale of beer and wine, nor any agent or servant of said permittee, shall accept USDA food coupons (or any other food coupons) in exchange for beer or wine. Any violation of this regulation shall constitute sufficient cause for the South Carolina Department of Revenue to revoke or suspend the permit or to impose a monetary penalty thereon.

7-701.3. Vending Machines for Beer Prohibited.

No beer and/or wine may be sold or dispensed through any type of vending machine.

7-701.4. Wines Sold by Beer and Wine Wholesalers.

Under the provisions of Section 61-4-10, wine containing alcohol not exceeding twenty-one percent (21%) by volume has been declared to be non-alcoholic and non-intoxicating.

The sale of such wine may be made by wholesale beer and wine dealers to retail liquor dealers, and wine not exceeding sixteen percent (16%) by volume may be sold to licensed retail beer and wine dealers.

It is a violation against any retail beer and wine permittee to have on the licensed premises any wine that is over sixteen percent (16%) alcohol by volume.

7-701.5. Natural Wines Defined.

Natural wines are defined as those wines produced by fermentation without any distilled alcohol being added thereto; provided the alcoholic content thereof shall not exceed sixteen percent (16%) by weight.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

7-702. Purchases, Transfers and Deliveries to and from Retail Locations.

This regulation concerns the purchases, transfers, and deliveries of beer or wine to and from locations licensed to sell beer or wine.

7-702.1. Delivery or Removal of Beer and Wine During Restrictive Hours Prima Facie Evidence of Sale.

Any beer or wine sold, offered for sale or delivered to anyone from any licensed place of business or the removal therefrom of any beer or wine between the hours of twelve o'clock Saturday night and sunrise Monday morning is a violation against the beer and wine permit and such permit will be subject to suspension or revocation, or the South Carolina Department of Revenue may accept a monetary penalty in lieu of suspension or revocation. Any delivery or removal of beer or wine between these restrictive hours shall be prima facie evidence that a sale was made.

7-702.2. Beer and Wine must be Delivered to Licensed Premises by Wholesaler.

No licensed beer wholesaler shall deliver beer or wine to anyone or any place other than a duly licensed retailer at his licensed place of business or to a duly licensed retailer from the platform of the licensed wholesaler. Nor shall a wholesaler sell or deliver to a licensed retail dealer from the platform of the licensed wholesale dealer without the licensed retail dealer possessing and first showing the wholesaler the retail dealer's copy of his retail beer and wine permit. No beer or wine shipped interstate to a licensed wholesaler may be diverted in route or shipped direct or reshipped to a beer or beer and wine retail licensee for purposes of storage or distribution by said retail licensee.

7-702.3. When Beer Sold on Credit, Dishonored Check, etc.

Any holder of a beer permit or a beer and wine permit who purchases beer and/or wine on credit, whether by a dishonored check, unpaid note, or invoice, or in any other manner, from a licensed beer and wine wholesale dealer, is in violation of this Regulation and the retail dealer's permit will be subject to be suspended, cancelled or revoked or, in lieu thereof, a monetary penalty be assessed against said permit.

7-702.4. Sales by Retailer to Another Retailer for Resale.

It shall be unlawful for a person who holds a retail beer and wine permit or a retail beer permit to sell to any other holder of a retail beer and wine permit or retail beer permit for the purpose of resale of beer and/or wine.

Every holder of a valid wholesale beer and wine permit shall service every holder of a valid retail beer, or beer and wine permit, with store-door delivery on at least a weekly basis within the territory designated by the producer. The violation of this regulation shall result in the suspension or revocation of the wholesale beer and wine permit, or a monetary penalty in lieu thereof.

7-702.5. Drive-In/Drive-Thru Establishments Prohibited.

A permit holder, employee of a permit holder, or agent of a holder must not sell or deliver beer or wine to anyone who remains in a motor vehicle during the transaction. This regulation is specifically

intended to prohibit the sale of beer and wine at drive-in/drive-thru establishments and on a curb service basis.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003. Amended by State Register Volume 29, Issue No. 4, eff April 22, 2005.

ARTICLE 9 HOSPITALITY CABINETS IN HOTEL ROOMS

7-800. Hospitality Cabinets.

Code Sections 61-6-2300 through 61-6-2370 authorize the sale by a hotel, motel, or inn of alcoholic beverages by means of hospitality cabinets located in the rooms of its guests, provided the hotel, motel, or inn is licensed to sell alcoholic beverages for on-premises consumption and the governing body of the county or municipality has approved by ordinance the sale of alcoholic beverages by means of hospitality cabinets. A hotel, motel, or inn licensed to sell alcoholic beverages for on-premises consumption may also place hospitality cabinets in condominiums owned or managed by it, whether or not the condominiums are located on the same property as the hotel, motel, or inn.

A hotel, motel, or inn licensed only to sell beer and wine for on-premises consumption may sell only beer and wine by means of hospitality cabinets located in the rooms of its guests. A hotel, motel, or inn licensed to sell alcoholic liquors for on-premises consumption may sell alcoholic liquors, beer, and wine by means of hospitality cabinets located in the rooms of its guests. All sales of alcoholic beverages by means of a hospitality cabinet must be in sealed containers in individual portions. Nothing in this regulation prevents a hotel, motel, or inn from selling nonalcoholic beverages, food or others items by means of a hospitality cabinet.

When a hotel, motel, or inn is selling alcoholic beverages by means of a hospitality cabinet, either the entire hospitality cabinet or the portion of it containing the alcoholic beverages must be restricted by means of a locking device which requires the use of a key, magnetic card or similar device.

In making such sales, hotels, motels, and inns must comply with the following:

(1) A hospitality cabinet may only be placed in rooms used for sleeping accommodations and may not be placed in rooms used for meetings or other functions, whether public or private. Empty cabinets, however, may be placed for storage purposes in an area of the hotel, motel, or inn not open to the public.

(2) The key, magnetic card, or other similar device required to obtain access to a hospitality cabinet may only be provided to a guest that requests it, whether on his own or upon being informed by the hotel of the availability of the hospitality cabinet. Such a request may be made at the time of check-in or at any time during the guest's stay at the hotel, motel, or inn. However, before the key, magnetic card, or other similar device is provided, the hotel, motel, or inn must verify that the guest is of legal drinking age.

(3) The hotel, motel, or inn must inform the guest in some manner of the specific areas of the hotel, motel, or inn where alcoholic liquors purchased from the hospitality cabinet may and may not be consumed by the guest.

(4) The hotel, motel, or inn may not advertise, sell, or dispense alcoholic liquors, beer or wine from the hospitality cabinets for free, at a price less than one-half the price regularly charged, or on a two or more for the price of one basis.

(5) The hospitality cabinet may only be restocked and replenished with alcoholic liquors by an employee twenty-one years of age or older. In addition, only employees meeting these age requirements may take inventory of alcoholic liquors contained in hospitality cabinets.

A hotel, motel, or inn selling alcoholic beverages by means of hospitality cabinets located in the rooms of its guests must comply with all of the provisions of Code Sections 61-6-2300 through 61-6-2370 and any other applicable provisions of Title 61 of the South Carolina Code of Laws.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.