

Liquor by the Drink Licenses for Restaurant/Hotel/Motel

- I. **Requirement.** Article VIII-A of The South Carolina Constitution governs the sale of liquor in South Carolina. Licenses to sell liquor for consumption on the premises can only be issued to businesses engaged primarily in the preparation and serving of meals or furnishing of lodging or to nonprofit organizations with limited membership not open to the general public. The purpose of this pamphlet is to give a brief outline of the law and regulations governing the sale of liquor by the drink at food service establishments and places of lodging.
- II. **Application.** Applications may be obtained by contacting the Alcoholic Beverage Licensing Section at (803) 898-5864, or by calling fax on demand at 1-800-768-3676 or (803) 898-5320. Application forms are also available on the Department's website at <http://www.sctax.org>. It is a crime to furnish false information on the application.
 - a. **Fees.** The initial application requires a nonrefundable filing fee of \$200. Licenses cost \$1,700 every two years.
 - b. **Owner must apply.** The applicant for the liquor by the drink license must be the true owner of the business, and must also have a retail sales tax license for the business (§ 61-2-100).
 - c. **Good moral character.** The applicant, all employees, and all principals must be of good moral character (§ 61-2-100). When a license or permit has been 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 (§ 61-2-140). No person within the second degree of kinship to a person whose license or permit has been 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 (§ 61-2-140). All principals of a corporate entity must also submit a "Verification of Lawful Background for Applicants Principals" (ABL Form-920).

- d. **Felony conviction.** The applicant cannot have been convicted of a felony within the past ten years (§ 61-6-1820).
- e. **Age and residence.** The applicant must be at least 21 years of age, must be a legal resident of the United States, and must have maintained his or her principle place of abode in South Carolina for at least thirty days prior to filing the application (§ 61-6-1820). The Applicant, if an individual, must complete and submit a "Verification of Lawful Residence" (ABL Form -577) in accordance with the S.C. Illegal Immigration Reform Act.
- f. **Location.** The location of the proposed place of business must be suitable for the sale of liquor by the drink.
- g. **Restaurant.** If seeking a liquor by the drink license as a restaurant, the business must be primarily engaged in the preparation and serving of food, and must also meet the following requirements (§ 61-6-1820(1)):
 - A. The business must have a Class A restaurant license from the Department of Health and Environmental Control (§ 61-6-20).
 - B. The business must have seating for not less than forty persons simultaneously at tables for the service of meals (§ 61-6-20).
 - C. The business must have a kitchen that is utilized for the cooking, preparation, and serving of meals (Regulation 7-401.3 and § 61-6-1610).
 - 1. "Kitchen" means a separate and distinct area that is used solely for the preparation, serving and disposal of solid foods that make up meals (Regulation 7-401.3 and § 61-6-1610).
 - 2. "Meal" means an assortment of various prepared foods which shall be available to guests on the licensed premises during 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 (Regulation 7-401.3 and § 61-6-1610).

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 premises is open to the public, and an adequate supply of food is present on the licensed premises to meet such demand (Regulation 7-401.3 and § 61-6-1610).
 - D. The business must have a menu or a posted listing of available meals (Regulation 7-401.3 and § 61-6-1610).
 - E. Hot meals must be prepared at least once each day the business is open for business (Regulation 7-401.3 and §§ 61-6-20 and 61-6-1610).
 - F. If the business advertises, a substantial portion of the advertising must be devoted to food services (Regulation 7-401.3).
- h. **Lodging.** If seeking a liquor by the drink license as a business that furnishes lodging, the business must rent accommodations for lodging to the public on a regular basis consisting of not less than twenty rooms (Regulation 7-401.3).
- i. **Minimum distance from schools, churches, or playgrounds.** Business establishments or locations established after November 7, 1962 must meet the following requirements:
 - A. If the church, school, or playground is located in a municipality, the establishment must be at least 300 feet away.
 - B. If the church, school, or playground is located outside of a municipality, the establishment must be at least 500 feet away.
 - C. The distance is measured using the shortest route of normal vehicular or pedestrian traffic.
 - D. The distance restrictions do not apply to renewals or to new locations licensed at the time the application is filed with the Department.
- j. **Newspaper advertisement.** The applicant must advertise his or her intention to apply for the liquor by the drink license in a newspaper most likely to give

notice to interested citizens (§ 61-6-1820). The advertisement must be published once a week for three consecutive weeks. Your application packet will list approved newspapers. It is the applicant's responsibility to advertise in the correct newspaper. Contact the Alcoholic Beverage Licensing Section at the number shown above if you are unsure which newspaper will give this required notice.

- k. **Notice to the public.** A sign must be displayed at the proposed place of business for at least fifteen days. An agent of the South Carolina State Law Enforcement Division must place and remove this sign (§ 61-6-1820). If the sign is removed by any person other than the agent, the location will have to be re-posted.
- l. **SLED investigation.** All liquor by the drink license applications are investigated by the South Carolina Law Enforcement Division. This investigation usually requires thirty to forty-five days, and will be delayed if the application is incomplete, incorrect information has been furnished on the application, or if the applicant does not promptly return the investigating agent's telephone calls.
- m. **Protests.** Any person residing in the county where a liquor by the drink license is being sought, or a person residing within five miles of the location, may protest the issuance of the permit (§ 61-6-1825). Such a protest will significantly delay a liquor by the drink application, as a contested case hearing must be held before the Administrative Law Court. Due to notice and scheduling requirements, it usually takes two to four months for a hearing to be held from the time the file is transmitted to the Administrative Law Court by the South Carolina Department of Revenue. Files cannot be transmitted until the application is complete, the investigation is complete, all notice periods have run, and the applicant has requested a hearing. Therefore, it is extremely important that the applicant follow the instructions in the application packet, fully answer all questions, and furnish all required information with the application. Once the Department has transmitted an application to the Administrative Law Court, the Court will schedule the matter for a hearing. Once a file has been transmitted to the Court, all requests for information and all motions must be filed with the Administrative Law

Court, 1205 Pendleton Street, Suite 224 Edgar A. Brown Building, Columbia, SC 29201. The telephone number of the Administrative Law Court is (803) 734-0550.

- n. **Temporary licenses not to exceed 120 days.** A person who purchases or acquires by lease, inheritance, divorce decree, eviction, or otherwise a retail business which sells liquor by the drink from a holder of a retail license to sell liquor by the drink at the business, upon initiating the application process may be issued a temporary liquor by the drink license (§ 61-6-2005). This license is valid until the biennial license is approved or denied, but in no case can the temporary license be valid for more than 120 days from the date of issuance. The fee for this license is \$25.00. The location for which the temporary license is sought must not be considered by the Department to be a public nuisance. All principals must be of good moral character, and cannot owe the State government any back taxes, penalties, or interest. The principals must attach a criminal records check, not more than 90 days old, on all principals. If any principals are nonresidents of SC or have not resided in SC for at least two years, you must attach a current criminal history background check obtained from the state of residency or former residency for each nonresident. These background checks must accompany your application. See page 3, for a definition of a "principal". For SC residents you can obtain these checks online at www.sled.state.sc.us or at SLED Headquarters, 4400 Broad River Rd, PO Box 21398, Columbia, SC 29221 (between the hours of 8:30 a.m. and 5:00 p.m. or by mail by forwarding your request to: SLED, PO Box 21398, Columbia, SC 29221-1398, ATTN: Criminal Records Department. You must enclose a self-addressed envelope and furnish your full name, social security number and date of birth. Record checks from SLED require a \$25.00 fee payable by money order or business check made out to SLED. **No personal checks or cash are accepted by SLED.**
- o. **Local zoning.** Before filing your application for a liquor by the drink license, you are strongly encouraged to check with your local zoning authorities to insure that your business will comply with local zoning requirements.

- III. Expiration dates of licenses.** Liquor by the drink licenses expire according to the county where the licensed premises is located (§ 61-2-120). The expiration dates are the last day of:
- a. 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;
 - b. May in years which end in an:
 - A. Odd number for Cherokee, Chester, Chesterfield, Darlington, Dillon, Fairfield, Florence, and Horry Counties;
 - B. Even numbers for Lancaster, Marion, Marlboro, Union, and York Counties;
 - c. August in years that end in:
 - A. Odd number for Calhoun, Kershaw, Lee, Orangeburg, and Sumter Counties;
 - B. Even number for Richland County;
 - d. 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.
- IV. License renewal.** File your renewal application at least thirty days before your license expires. A timely renewal by mail will prevent you from having to wait in a lengthy line. If you allow your license to expire, you cannot sell liquor by the drink, and you will have to pay a filing fee to obtain your license. You may be required to re-advertise, and a new SLED investigation may be required. If you owe delinquent taxes, interest, or penalties, your license will not be renewed (§ 61-2-160).
- V. Sales tax license required.** In addition to your liquor by the drink license, before you sell any item, you must first obtain a retail business license (sales tax license) from the South Carolina Department of Revenue (§ 12-36-510). There is a one-time fee of fifty dollars for this license.
- VI. Sale of wine at locations with a liquor by the drink license.** Wine containing alcohol at least 16% (by volume) may be sold only to be consumed on the premises. Wine containing less than 16% may be sold to be consumed on the premises, and may be sold to go.

- VII. Hours.** Except on Sunday, you may sell liquor by the drink from 10:00 AM until 2:00 AM (§ 61-6-1610). Therefore, sales of alcoholic beverages must cease at midnight Saturday night, and cannot resume until 10:00 AM Monday morning, unless you have purchased a local option permit as described below
- VIII. Local Option Permits.** Local option permits are available only to those businesses that have a liquor by the drink license. The permit allows a business to sell liquor by the drink from midnight Saturday night to 2:00 AM Sunday morning, and from 10:00 AM Sunday morning until midnight Sunday night (at which time the biennial liquor by the drink license would authorize sales until 2:00 AM Monday morning). These permits are available only in those counties and municipalities where a majority of the qualified electors have approved them in a referendum vote. Local option permits cost two hundred dollars (\$200.00) per day. If a business wants to purchase this permit on an annual basis, the cost is a nonrefundable fee of \$3,050.00. Currently, these permits are available for businesses located in the following counties: Beaufort, Charleston, Dorchester, Georgetown, Horry, Lexington, Richland, and York. They are also available for businesses located in the following municipalities: Aiken, Anderson, Bluffton, Blythewood, Columbia (within Lexington and Richland Counties), Daniel Island, Edisto Beach, Florence, Goose Creek, Greenville, Hanahan, Hardeeville, Hilton Head Island, Mauldin, North Charleston (within Charleston, Dorchester and Berkeley Counties), Port Royal, Rock Hill, Santee, Spartanburg, Summerville (within Charleston, Dorchester and Berkeley Counties), Tega Cay, and Yemassee.
- IX. Licensed premises.** Licensed premises includes those areas normally used by the licensee to conduct his or her business and includes, but is not limited to the following: Selling areas, storage areas, food preparation areas, and parking areas. However, if you hold your liquor by the drink license as a food service establishment, your licensed premises does not include any portion of your premises designed or used as a parking area or deck to a swimming pool (§ 61-6-1610(B)).
- X. Change of ownership.** If you sell your business, you must surrender liquor by the drink license to the Department immediately. Liquor by the drink licenses cannot be transferred to the new owner. If you allow the new owner to use your liquor by the drink license, you will be held financially responsible for any violation committed by the

new owner (§ 61-2-140). If the permit is issued to a corporation, sale of twenty-five percent or more of the corporate stock is a change of ownership.

- XI. Change in the character of the property, facilities, or nature of the business activity.** If there is a change in the character of the property, facilities, or nature of your business activity, you must immediately surrender your liquor by the drink license to the Department (§ 61-2-140).
- XII. Termination of the business.** If you cease operating your business, you must immediately surrender your liquor by the drink license to the Department (§ 61-2-140).
- XIII. Discount pricing for on-premises consumption.** Alcoholic beverages may be sold at a price less than the price regularly charged from four o'clock p.m. until eight o'clock p.m. only. One cannot charge less than one-half of the price regularly charged, or on a two or more for one basis. Beverages can be dispensed for free to customers only on an individual basis, to a fraternal organization in the course of its fund-raising activities, to a person attending a private function on premises for which a biennial permit has been issued, or to a customer attending a function sponsored by the person who holds a biennial permit. However, no more than two functions may be sponsored each year, and must be authorized by the South Carolina Department of Revenue (§ 61-6-4550).
- XIV. Minimum age of employees.**
 - a. **Servers.** Employees who serve alcoholic beverages or drinks containing liquor, or wine containing 16% or more alcohol content must be at least eighteen years of age (§ 61-6-2200).
 - b. **Bartenders.** Bartenders must be at least twenty-one years of age (§ 61-6-2200).
- XV. Prohibited acts.**
 - a. **Advertising, selling, or dispensing alcoholic beverages for free, at a price less than one-half the price regularly charged, or on a two or more for one basis.** § 61-6-4550.
 - b. **Avoiding taxes.** § 61-6-2610.
 - c. **Bartender under the age twenty-one.** § 61-6-2200.
 - d. **Conducting, operating, organizing, promoting, advertising, running, or participating in a drinking contest or drinking game.** § 61-6-2230.
 - e. **Failure to be primarily engaged in the preparation and service of meals.** § 61-6-1830(1).
 - f. **Failing to display liquor by the drink license.** Regulation 7-200.3.

- g. **Failure to maintain adequate lighting of the bar area.** Regulation 7-401.2.
 - h. **Failure to maintain Class A license issued by the S.C. Department of Health and Environmental Control (food service establishments only).** §61-6-1830(1).
 - i. **Failure to maintain records of distilled spirits purchases for 2 years.** Regulation 7-202.2.
 - j. **Interference with an officer.** § 61-2-240.
 - k. **Permitting a person under twenty-one years of age to possess or consume liquor.** Regulation 7-200.4.
 - l. **Permitting lewd, immoral, or improper entertainment, conduct or practices.** This includes, but is not limited to, entertainment, conduct, or practices where a person is in a state of undress so as to expose the human male or female genitals, pubic area, or buttocks cavity with less than a full-opaque opening. § 61-6-1830.
 - m. **Purchase of alcoholic beverages from a person other than a licensed retail dealer.** § 61-6-1630.
 - n. **Purchase of alcoholic beverages from a retail dealer with a check that fails to clear the bank.** Regulation 7-402.
 - o. **Refilling minibottles.** § 61-6-2600.
 - p. **Refusal to permit inspection upon demand of an officer or agent.** § 61-4-230.
 - q. **Sale of alcoholic beverages on which the tax has not been paid.** § 61-6-2600.
 - r. **Sale or delivery of alcoholic beverages during restricted hours.** § 61-6-1610.
 - s. **Sale of alcoholic beverages to an intoxicated person.** § 61-6-2220.
 - w. **Server under the age of eighteen.** § 61-6-2200.
- XVI. Penalties.** The Department may revoke the license of any person failing to comply with requirements (§ 61-6-1830). However, in lieu of revocation, the Department may suspend the license or assess a monetary penalty. The penalty for a violation is dependant upon the severity of the offense. In addition, the Department may consider the number and severity of previous violations. However, for serious offenses, the Department may revoke the liquor by the drink license for the first violation. Some offenses are also criminal offenses, and violators may be arrested.
- XVII.** Employee and manager training emphasizing methods for selling beer and wine legally are available from a variety of

3rd-party vendors. For a list of approved vendors, see S.C. Revenue Procedure 04-4, available online under the Alcohol Beverage Licensing and Regulations Advisory Opinions.

XVIII. This handout is for general guidance only. It does not include every law or regulation dealing with beer, wine or alcoholic beverages, or every crime that can be committed on a licensed premise. You may contact the South Carolina Department of Revenue at 803-898-5864 or www.sctax.org, in order to find or be instructed on how to find a complete copy of the laws and regulations on Beer, Wine and Alcoholic Beverages. Please be aware that the law regulating Beer, Wine and Alcoholic Beverages can be amended at any time.

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[1] Retailers may accept draft beer or wine equipment replacement parts of nominal value, party wagons for temporary use, and point of sale advertising specialties. A retailer may also accept the cleaning of draft or wine lines, setting boxes, rotating stock, affixing price tags to beer or wine products, and building beer or wine displays.

[2] The five percent may be collected from each attendee. The price of admission must be on the ticket, and you must retain the ticket stub for three years.

[3] "The courts will refuse to countenance any trick or subterfuge intended to evade the law..."
See Pirates Cove v. ABC Commission, 258 S.C. 397, 189 S.E.2d 7 (1972).

[4] Selling items, selling tickets or charging admission are examples of business or commercial activity.

[5] Advertising the event on television, on radio, in the newspaper, with flyers, with billboards or with signs is evidence that the function is open to the general public. Admitting persons that have not been personally invited by the person giving the function is evidence that the function is open to the general public