

Unlicensed Social Functions

I. General.

- a. The purpose of this pamphlet is to give the reader an overview of South Carolina laws regulating the possession and consumption of beer, wine, and liquor at unlicensed social functions. For purposes of this pamphlet, an unlicensed social function is an event of a noncommercial nature where admission is not charged, and beer, wine, or liquor is being consumed, but not sold, and the person having the function does not have a beer and wine permit or liquor license. A wedding reception where beer, wine, or liquor is being consumed is an example of an unlicensed social function. If you intend to charge admission to your function and include beer, wine or liquor in the price of admission, you must obtain a beer and wine permit or liquor license. You will also need to obtain an admissions tax license, and pay a tax of five percent of the price of the admission ticket.^[2] If you intend to charge for items or services and include beer, wine, or liquor in the charge for the items or services, you must obtain a beer and wine permit or liquor license.^[3] If you intend to charge for anything, be sure that you have first obtained a sales tax license from the South Carolina Department of Revenue. If you wish to sell beer, wine, or liquor you need to first obtain the appropriate beer and wine permit or liquor license.

II. Functions at locations that do not have a beer and wine permit or liquor license—

- a. **To legally possess or consume beer or wine –**
 - A. There are no restrictions as to the days or hours of the function;
 - B. Persons possessing or consuming beer or wine must be at least twenty-one years of age (§ 20-7-8920);
 - C. Persons may bring their own beer or wine, or the person giving the function may furnish beer or wine at no charge; the person giving the function may not charge an admission or otherwise condition the furnishing of beer wine or liquor for any form of consideration.
 - D. Arriving and departing persons should be aware that it is unlawful for any person to have in his or her possession, except in the trunk or luggage compartment, beer or wine in an open container in a moving vehicle (§ 61-4-110);
 - E. The function may be open to the general public; and,
 - F. The beer or wine at the function must have been purchased from a licensed South Carolina retailer (§ 61-4-350).
- b. **To legally possess or consume liquor –**

- A. There are no restrictions as to the days or hours of the function;
- B. Persons possessing or consuming liquor must be at least twenty-one years of age (§ 20-7-8925);
- C. Persons may bring their own liquor, or the person giving the function may furnish liquor at no charge. The liquor can be in a container of any size;
- D. **The function must be held at one of the following locations (§ 61-6-4710):**
 - 1. In a private residence, hotel room, or motel room;
 - 2. On property not engaged in business or commercial activity^[4], at private gatherings, receptions, or occasions of a single and isolated nature and not on a repetitive or continuous basis, with the express permission of the owner and any other person in possession of the property, and to which the general public is not invited^[5]; or,
 - 3. In separate and private areas of an establishment where specific individuals have leased these areas for a function not open to the general public.
- E. The liquor must have been lawfully acquired (§ 61-6-4010), and must have been purchased from a licensed South Carolina retailer (§ 61-6-2930); and,
- F. Arriving and departing persons should be aware that it is unlawful for any person to transport liquor in a motor vehicle if the cap or seal on the container has been opened or broken except in the luggage compartment or cargo area (§ 61-6-4020).
- G. **Warning. The possession or consumption of liquor at functions that do not comply with the requirements listed above is illegal. Persons found in possession of liquor under those circumstances could be charged with a crime. Upon conviction, a person can be fined up to \$100 or imprisoned for not more than thirty days (§ 61-6-4710).**

III. Functions at locations that have only a biennial beer and wine permit

a. To legally possess or consume beer or wine –

- A. Unless the requirements listed below are met, it is unlawful to consume or to possess beer or wine in an open container between the hours of twelve o'clock Saturday night and sunrise Monday morning at a place licensed to sell beer and wine (§ 61-4-140). It is also unlawful to deliver beer or wine to a person from a place of business between the hours of twelve o'clock Saturday night and sunrise Monday morning (§ 61-4-130). If there is an unlawful delivery, all beer and

wine on the premises becomes contraband and must be seized by law enforcement officers.

- B. In order legally to possess or to consume beer or wine between the hours of midnight Saturday night and 2:00 AM Sunday morning at a location that has a biennial beer and wine permit the following requirements must be met:
1. The function may not be open to the general public[5];
 2. There must be a written lease between the owner of the premises and the host of the function. The lease must specify the terms, lessor and lessee, dates, times, and consideration. The lease must terminate by 2:00 AM Sunday morning (Regulation 7-403):
 3. The lease must be on the premises at the time the function is being held, and must be available for inspection by law enforcement officers;
 4. The lease must be bona fide, and cannot be a sham so that the biennial permit holder can remain open during restricted hours;
 5. The biennial beer and wine permit holder and his or her agents may sell and deliver beer and wine during the hours that it may legally be sold. They cannot sell or deliver beer or wine between the hours of midnight Saturday night and sunrise Monday morning (§ 61-4-130);
- C. The function must end by 2:00 AM Sunday morning. Even at a private function in a separate area that has been leased, it is illegal to consume beer or wine or to possess open containers of beer or wine between the hours of 2:00 AM Sunday morning and sunrise Monday morning on premises licensed to sell beer and wine (§ 61-4-140 and Regulation 7-403);
- D. Persons possessing or consuming beer or wine must be at least twenty-one years of age (§ 20-7-8920);
- E. Persons may bring their own beer or wine, or the person giving the function may furnish beer or wine at no charge;
- F. Arriving and departing persons should be aware that it is unlawful for any person to have in his or her possession, except in the trunk or luggage compartment, beer or wine in an open container in a moving vehicle (§ 61-4-110); and,
- G. The beer or wine at the function must have been purchased from a licensed South Carolina retailer (§ 61-4-350).
1. **Warning. If all the above requirements are not followed, it is a crime to possess or consume beer or wine during restricted hours on premises licensed to sell beer and wine. Violators can be arrested, and the biennial beer and wine permit**

holder can be cited for a violation. It is also possible that all beer and wine on the premises may be confiscated.

b. To legally possess or consume liquor –

- A. Possession or consumption of liquor must cease at 2:00 AM Sunday morning;
- B. It is unlawful for a person to store or have in possession liquor in his place of business other than a location licensed to sell liquor unless the requirements listed below are followed (§§ 61-6-4060 and 61-4-580(6)):
 - 1. A person can possess liquor on beer and wine premises only in separate and private areas of the establishment (§ 61-6-1620(B));
 - 2. A specific individual must have leased the separate and private area for a function that is not open to the general public (§ 61-6-1620(B))[5];
 - 3. There must be a written lease between the owner of the premises and the host of the function. The lease must specify the terms, lessor and lessee, dates, times, and consideration. The lease must terminate by 2:00 AM Sunday morning (Regulation 7-403);
 - 4. The lease must be on the premises at the time the function is being held, and must be available for inspection by law enforcement officers; and,
 - 5. The lease must be bona fide, and cannot be a sham in an attempt for the biennial permit holder to allow his or her patrons to possess or consume liquor.
- C. The liquor must have been lawfully acquired (§ 61-6-4010), and must have been purchased from a licensed South Carolina retailer (§ 61-6-2930);
- D. Arriving and departing persons should be aware that it is unlawful for any person to transport liquor in a motor vehicle if the cap or seal on the container has been opened or broken except in the luggage compartment or cargo area (§ 61-6-4020) and,
- E. The function must end by 2:00 AM (Regulation 7-403).
- F. **Warning. The possession or consumption of liquor at functions that do not comply with the requirements listed above is illegal. Persons found in possession of liquor under those circumstances could be charged with a crime. Upon conviction, a person can be fined up to \$100 or imprisoned for not more than thirty days (§ 61-6-4710).**

IV. Functions at locations that have a biennial hotel, motel, or restaurant liquor by the drink license and a beer and wine permit –

- a. **To legally possess or consume beer or wine –**
- A. It is unlawful to consume or to possess beer or wine in an open container between the hours of twelve o'clock Saturday night and sunrise Monday morning at a place licensed to sell beer and wine, unless the requirements listed below are followed (§ 61-4-140). It is also unlawful to deliver beer or wine to a person from a place of business between the hours of twelve o'clock Saturday night and sunrise Monday morning (§ 61-4-130). If there is a delivery, all beer and wine on the premises becomes contraband and must be seized by law enforcement officers;
 - B. A person may possess and consume beer or wine between the hours of midnight Saturday night and 2:00 AM Sunday morning at a location that has a biennial beer and wine permit if the following requirements are met:
 - 1. The function may not be open to the general public [5];
 - 2. There must be a written lease between the owner of the premises and the person giving the function. The lease must specify the terms, lessor and lessee, dates, times, and consideration. The lease must terminate by 2:00 AM Sunday morning (Regulation 7-403);
 - 3. The lease must be on the premises at the time the function is being held, and must be available for inspection by law enforcement officers;
 - 4. The lease must be bona fide, and cannot be a sham so that the biennial permit holder can remain open during restricted hours;
 - 5. The biennial beer and wine permit holder and his or her agents may sell and deliver beer and wine during the hours that they can lawfully sell beer and wine. They cannot sell or deliver beer or wine between the hours of midnight Saturday night and Sunrise Monday morning (§ 61-4-130);
 - 6. The function must end by 2:00 AM Sunday morning. It is illegal to consume beer or wine or to possess open containers of beer or wine between the hours of 2:00 AM Sunday morning and sunrise Monday morning on premises licensed to sell beer and wine (§ 61-4-140 and Regulation 7-403).
 - C. Persons possessing or consuming beer or wine must be at least twenty-one years of age (§ 20-7-8920);
 - D. Persons may bring their own beer or wine, or the person giving the function may furnish beer or wine at no charge;

- E. The beer or wine at the function must have been purchased from a licensed South Carolina retailer (§ 61-4-350); and,
- F. Arriving and departing persons should be aware that it is unlawful for any person to have in his or her possession, except in the trunk or luggage compartment, beer or wine in an open container in a moving vehicle (§ 61-4-110).
- G. **Warning. If all the preceding requirements are not followed, it is a crime to possess or consume beer or wine during restricted hours on premises licensed to sell beer and wine. Violators can be arrested, and the biennial beer and wine permit holder can be cited for a violation. It is also possible that all beer and wine on the premises may be seized by law enforcement officers.**

b. **To legally possess or consume liquor –**

- A. Liquor cannot be on the premises between the hours of 2:00 AM and 10:00 AM (Regulation 7-403);
- B. A person can possess liquor only in separate and private areas of the establishment only if the following requirements are met (§ 61-6-1620(B)):
 - 1. A specific individual must have leased the separate and private area for a function that is not open to the general public [5] (§ 61-6-1620(B));
 - 2. There must be a written lease between the owner of the premises and the host of the function. The lease must specify the terms, lessor and lessee, dates, times, and consideration, and must terminate by 2:00 AM (Regulation 7-403);
 - 3. The lease must be on the premises at the time the function is being held, and must be available for inspection by law enforcement officers (Regulation 7-403);
 - 4. The lease must be bona fide, and cannot be a sham
 - 5. The liquor must have been lawfully acquired (§ 61-6-4010), and must have been purchased from a licensed South Carolina retailer (§ 61-6-2930).
 - 6. The person giving the function or sponsor or designated agent must purchase and deliver to the leased area all alcoholic beverages and must remain constantly in actual possession of the liquor until the function ends (Regulation 7-403);
 - 7. At the end of the function, the liquor must be removed from the licensed premises and taken to an area where it can be stored legally (Regulation 7-403);
- C. Arriving and departing persons should be aware that it is unlawful for any person to transport liquor in a motor vehicle

if the cap or seal on the container has been opened or broken except in the luggage compartment or cargo area (§ 61-6-4020);

- D. Liquor may not be possessed or consumed between the hours of 2:00 AM and 10:00 AM (Regulation 7-403); and,
- E. The liquor by the drink license holder can sell and deliver liquor during those hours that his or her liquor by the drink license authorizes sales.

Warning - The possession or consumption of liquor at functions that do not comply with the requirements listed above is illegal. Persons found in possession of liquor under those circumstances could be charged with a crime. Upon conviction, a person can be fined up to \$100 or imprisoned for not more than thirty days (§ 61-6-4710).

[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