
State of South Carolina
Department of Revenue
301 Gervais Street, P. O. Box 125, Columbia, South Carolina 29214

SC REVENUE RULING #95-4 (ABC)

SUBJECT: Minimum Age Requirements
(ABC Laws)

EFFECTIVE DATE: Applies to all periods open under statute.

SUPERSEDES: All previous documents and any oral directives in conflict herewith.

REFERENCES: S.C. Code Ann. Section 20-7-370 (Supp. 1994)
S.C. Code Ann. Section 61-5-20(6) (Supp. 1994)
S.C. Code Ann. Section 61-13-340

AUTHORITY: S.C. Code Ann. Section 12-4-320 (Supp. 1994)
S.C. Revenue Procedure #94-1

SCOPE: A Revenue Ruling is the Department of Revenue's official advisory opinion of how laws administered by the Department are to be applied to a specific issue or a specific set of facts, and is provided as guidance for all persons or a particular group. It is valid and remains in effect until superseded or modified by a change in the statute or regulations or a subsequent court decision, Revenue Ruling or Revenue Procedure.

Question:

How old do employees have to be in order to work in locations selling beer, wine, or distilled spirits?

Conclusions:

Beer and Wine

In order to work as a bartender in any facility that sells open containers of beer or wine, a person must be at least twenty-one years of age.

In order to work as a server, waiter or waitress and serve open containers of beer or wine a person must be at least eighteen years of age.

The ABC laws do not set any minimum age requirement in order to sell or deliver sealed containers of beer or wine. (See Chapter 13 of Title 41 of the South Carolina Code of Laws for other laws concerning child labor.)

Alcoholic Liquors

In order to work as a bartender in any facility that sells open containers of distilled spirits, a person must be at least twenty-one years of age.

In order to work as a server, waiter or waitress and serve open containers of distilled spirits, a person must be at least eighteen years of age.

In order to work in any capacity in a retail liquor store, wholesale liquor business, or a distillery, a person must be at least twenty-one years of age.

Facts:

There has been some confusion surrounding the minimum age of different employees in various aspects of the beer, wine, and distilled spirits industry. Prior to the General Assembly raising the minimum age to possess beer and wine, bartenders and employees in locations that sold only beer and wine needed only to be eighteen years of age. The initial changes in the minimum age had no exceptions for employees. In response to public demand, the General Assembly created some exceptions for various categories of employees.

Discussion:

SC Code Section 20-7-370 states in part:

It is unlawful for any person under the age of twenty-one to purchase or knowingly have in his possession, any beer, ale, porter, wine, or any other similar malted or fermented beverage. . .

This section does not apply to any employee lawfully engaged in the sale or delivery of any such beverage in an unopened container.

Persons eighteen years of age and over lawfully employed to serve or remove beer, wine, or alcoholic beverages in establishments licensed to sell such beverages are not considered to be in unlawful possession of the beverages during the course and scope of their duties as an employee. The provisions of this paragraph shall in no way affect the requirement that a bartender must be at least twenty-one years of age.

Hence, this statute allows persons eighteen years and older to serve or remove alcoholic beverages in licensed establishments; however, to serve as a bartender, a person must be at least twenty-one years of age.

SC Code Section 61-5-20(6) provides that:

No person shall serve or deliver to a purchaser any alcoholic liquors in sealed containers in a business where such sales are authorized unless such person has attained the age of eighteen years;

"Alcoholic liquors" are defined in Code Section 61-3-20:

(1) The words "alcoholic liquors" mean any spirituous malt, vinous, fermented, brewed (whether lager or rice beer) or other liquors or any compound or mixture thereof by whatever name called or known which contains alcohol and is used as a beverage, but shall not extend to:

(a) wine when manufactured or made for home consumption and which is not sold by the maker thereof or by any other person, or

(b) any beverage declared by statute to be nonalcoholic or nonintoxicating.

SC Code Section 61-9-10 declares that:

All beers, ales, porter and other similar malt or fermented beverages containing not in excess of five per cent of alcohol by weight and all wines containing not in excess of twenty-one per cent of alcohol by volume are hereby declared to be nonalcoholic and nonintoxicating beverages.

Thus, in order to serve sealed containers of "alcoholic liquors", the definition of which does not include beer and wine which meet the requirements of Code Section 61-9-10, a person must be at least eighteen years of age. To serve or deliver sealed containers of beer and wine, the statute does not state a minimum age requirement.

SC Code Section 61-13-340 further states that:

It shall be unlawful for any person under the age of twenty-one years to work as an employee or otherwise in a retail, wholesale or manufacturing liquor business or business establishment or for any person knowingly to employ any person under the age of twenty-one years in any such business or business establishment.

Therefore, no person under the age of twenty-one years of age may be employed in any capacity in a retail liquor store, wholesale liquor business, or a distillery.

For questions concerning minimum age requirements, contact Nicholas Sipe at (803) 737-4440.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Burnet R. Maybank
Burnet R. Maybank, III, Director

Columbia, South Carolina
May 31, 1995