



STATE OF SOUTH CAROLINA  
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210  
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February 18, 2026

**BEER & WINE WHOLESALERS**

**PROHIBITED FURNISHINGS UNDER S.C. CODE §§ 61-4-940 & 61-4-735**

S.C. Code § 61-4-940, along with S.C. Code § 61-4-735, makes it unlawful for a beer or wine wholesaler to “furnish, give, rent, lend, or sell, directly or indirectly, to the holder of a retail permit any equipment, fixtures, free beer, or service.” This prohibition is categorical and comprehensive, with the only exceptions to it being explicitly outlined in S.C. Code § 61-4-940(C) (and S.C. Code § 61-4-735(C)). Moreover, the prohibition applies to *all* holders of the Beer and Wine Wholesaler/Distributor Permit and is indiscriminate regarding whether a wholesaler distributes products other than beer and wine, such as soft drinks or energy drinks. Any holder of the Beer and Wine Wholesaler/Distributor Permit is prohibited by S.C. Code § 61-4-940 (and S.C. Code § 61-4-735) from furnishing any holder of a retail beer and wine permit with equipment, fixtures, free beer (or wine), or service. The purpose or utilization of the equipment, such as the equipment being used for the storage of non-alcoholic drinks, is not consequential, as the very *act* of furnishing the equipment is categorically prohibited by law for all holders of the Beer and Wine Wholesaler/Distributor Permit. A Beer and Wine Wholesaler/Distributor Permit holder may not furnish any item of value or any service not explicitly authorized by S.C. Code §§61-4-940(C) & 61-4-735(C), including, but not limited to, refrigeration equipment for soft drinks, energy drinks, or other beverages not containing alcohol.

**DISCUSSION**

It has been argued that a distinction should be made between a wholesaler providing equipment relating to the sale of beer and wine as opposed to the same wholesaler providing equipment for use on the non-alcohol side of the retailer's business. “However, the fact that the wholesaler and retailer warrant or contractually agree that such equipment will be used exclusively for another non-alcohol purpose does not appear to be relevant to the General

Assembly's intent in enacting these provisions." *Op. S.C. Att'y Gen.*, August 9, 1995 at 5. The statute provides a list of explicit exceptions to the furnishing prohibition, yet "[n]owhere in the statute does the Legislature provide any exception for a wholesaler who also engages in soft drink distribution." *Id* at 9. To that end, S.C. Code § 61-4-940 "proscribes on its face the 'giving, renting, lending or selling' of any equipment by a licensed beer wholesaler to a holder of a retail permit, *regardless* of whether such equipment is given in the capacity of a beer wholesaler or that of a distributor of soft drinks." *Id* at 2 (emphasis added). "Accordingly, an [unlawful furnishing] is deemed to [have occurred] whether or not equipment is provided to the retailer for the purpose of the retailer's storing beer or whether such equipment is provided with some other purpose, such as the placing of soft drinks therein." *Id* at 7. The prohibition enacted by the legislature through the statute is not limited by, nor concerned with, the nature of the thing which is being given, loaned, or otherwise conveyed to the retailer by the wholesaler; rather, the legislature enacted the statute to prevent the control of the retail space by wholesalers, manufacturers, or importers through the power of credit, which would not depend upon the nature of the consideration out of which the credit arose. See *Id.* (citing *James J. Sullivan, Inc. v. Cann's Cabins*, 309 Mass. 519, 36 N.E.2d 371 (1941). "[M]ost, if not all, of the States, including our own, have prohibited [any] furnishing by manufacturers or distributors of buildings, bars, equipment, or loans of money to a retailer." *Weisberg v. Taylor*, 409 Ill. 384, 389, 100 N.E.2d 748, 751 (1951). Wholesalers are prohibited by statute and common law from actions which are meant to curry favor with retailers such that the wholesaler could gain influence over the retailer, *regardless* of whether that influence is ever realized or utilized in such a way that is detrimental. "Proof regarding a violation does not require an actual showing of influence by a brewer or wholesaler upon the product choices of a retailer; rather, tied-house laws are specifically designed to alleviate the need for a showing, which is why the Legislature broadly chose to bar the described relationships whether they exist directly or indirectly. See *Op. S.C. Att'y Gen.*, August 9, 1995 at 4 (citing *Miller Brands-Milwaukee v. Case*, 156 Wis.2d 800, 457 N.W.2d 896 (1990). South Carolina law – specifically S.C. Code §§ 61-4-940 and 61-4-735 – categorically prohibits the furnishing or conveyance of equipment, fixtures, free beer, or service to a retail permit holder by a Beer and Wine Wholesaler/Distributor Permit holder and does *not*

require that the wholesaler's prohibited activities constitute an attempt to gain control over the retailer for the statute to be implicated. See *Id.* Merely the wholesaler's act of furnishing, giving, or lending something of value to a retailer, regardless of the context or intended outcome, is prohibited. This broad sweeping prohibition of any furnishing or conveyance – regardless of whether it is meant to curry favor or influence – sufficiently and necessarily diminishes the possibility of abuse, partnership, or coercion which could easily arise from such an act. “[T]he purpose of the ‘three tier’ law would be thwarted if we were to conclude that the statute was not violated where a beer wholesaler gave ‘equipment’ to the retailer so long as the purpose was not to use that equipment for a purpose related to the sale of beer.” *Op. S.C. Att’y Gen.* (August 9, 1995) at 8. “The restriction or curbing of credit by legislative enactment is but a logical extension of these prohibitions and is directly connected with [preventing] the ‘tied house.’” *Weisberg v. Taylor*, 409 Ill. 384, 389, 100 N.E.2d 748, 751 (1951). Therefore, the Department shall not contest the presumption that a reasonable basis exists for the conclusion of the legislature that credit and benefit extended by a distributor to a retailer through the furnishing or conveyance of items or services of value has within itself such inherent potential for abuse that the legislature resolved to explicitly categorize such acts as unlawful.

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