

# PUBLIC DRAFT

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Comments Due by: **December 31, 2025**

## SC REVENUE PROCEDURE #25-XX [PUBLIC DRAFT – 12/03/2025]

**SUBJECT:** Penalty Guidelines for ABL Violations  
(ABC Laws)

**EFFECTIVE DATE:** January 1, 2026

**SUPERSEDES:** SC Revenue Procedure #13-2  
SC Revenue Procedure #24-1  
All previous documents and any oral directives in conflict herewith.

**REFERENCE:** Title 61 (2009 and Supp. 2025)  
2025 S.C. Acts 42

**AUTHORITY:** S.C. Code Ann. § 12-4-320 (2014)  
S.C. Code Ann. § 1-23-10(4) (2005)  
SC Revenue Procedure #09-3

**SCOPE:** The purpose of a Revenue Procedure is to provide procedural guidance to the public. It is an advisory opinion issued to assist in the administration of laws and regulations by providing guidance that may be followed in order to comply with the law. It is effective until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion.

### **INTRODUCTION**

On May 12, 2025, Governor Henry McMaster signed Bill Number H. 3430 (“Act”), effective January 1, 2026, which amends portions of the alcohol laws found in Title 61. The purpose of this Revenue Procedure is to amend the Department’s penalty guidelines for administrative violations of the State’s alcohol laws to comply with the amendments in the Act.

This advisory opinion provides guidelines of the State’s alcohol laws for the Department to use in assessing penalties for violations of the statutes and regulations governing the sale, distribution, or possession of beer, wine, and alcoholic liquors. The General Assembly established penalty ranges for violations depending on the law that was violated, as well as the type of license(s) authorizing the sale of beer, wine, or alcoholic liquors held by the person or entity committing the violation(s).<sup>1</sup>

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<sup>1</sup> In some cases, the term “license” is used in connection with liquor, while the term “permit” is used in connection with beer and wine. However, in this document the terms (and their derivatives) are interchangeable.

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The overall purpose of this procedure is to promote uniform penalty application, to provide guidance regarding recent changes to the State's alcohol laws, to provide a broader range of progressive penalties for certain violations, and to provide for penalties that are more stringent for some violations while updating the circumstances in which the Department will seek to revoke a license. The Department may be flexible in situations that are particularly egregious or that fall outside the specific situations described in the guidelines. These guidelines do not restrict the Department's authority to impose any sanction within the statutory authority granted by the General Assembly.<sup>2</sup>

With the exception of any statutorily required penalties, these penalties are guidelines only. This advisory opinion does not establish a binding norm. There will likely be circumstances presented that call for either a more severe or less severe sanction. As a general rule, the Department will consider, although it may not accept, any claim of mitigating circumstances from a liquor license holder and any claim of aggravating circumstances from law enforcement or other sources regarding a beer and wine permit holder or a liquor license holder.

Additionally, this advisory opinion establishes the usual procedure that the Department will employ when it seeks to suspend a license on an emergency basis and provides guidance on the kinds of situations that may warrant an emergency suspension.

Finally, ensuring compliance with the law, not punishment, is the primary goal for administrative penalties. Accordingly, except for the most serious offenses (*see* "Emergency Suspension" below) and except for statutorily mandated penalties,<sup>3</sup> the Department adopts a progressive response to assessing penalties. The penalties listed below provide a monetary sanction, a suspension, a revocation, a cancellation, or some combination thereof.

## **OFFENSES AND PENALTY GUIDELINES**

### *Revocations vs. Permanent Revocations*

Unless otherwise stated (i.e., "permanent revocation" as opposed to "revocation"), the revocation of a permit or license is not a permanent revocation, but is in effect for a fixed period of time. *See* S.C. Code Ann. § 61-2-140(E) ("A person whose license or permit has been suspended or revoked for a particular premises is not eligible to receive an additional new license or permit at another location *during the period the . . . revocation is in effect . . .*"). An applicant is ineligible for a permit under Chapter 4, Title 61 if the applicant had a permit revoked within two (2) years from the date of the new application. *See* S.C. Code Ann. § 61-4-520(3). Further, an applicant is ineligible for a license under Articles 3 or 7, Chapter 6, Title 61 if the applicant had "a license under this or another statute regulating the manufacture or sale of alcoholic liquors which has been revoked within five years preceding the filing of the application." S.C. Code Ann. § 61-6-110(4).

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<sup>2</sup> *See, e.g.,* S.C. Code Ann. §§ 61-4-250 and 61-4-270.

<sup>3</sup> *See* S.C. Code Ann. § 61-4-580 (as modified by 2025 Acts 42).

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Accordingly, unless specifically stated as a “permanent revocation,” any offense listed resulting in a “revocation” will either result in a two (2) year or five (5) year revocation period depending on the type of permit or license under which the violation occurred. Furthermore, “[n]o person within the second degree of kinship to a person whose license or permit is 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.” S.C. Code Ann. § 61-2-140(D).

## Licenses within Close Proximity

Generally, when the Department seeks suspension or revocation of a license it will also seek suspension or revocation, respectively, of any other license issued to the same license holder at the same location or at a location within close proximity. S.C. Code Ann. § 61-2-140(E). For example, a license holder operating a restaurant with both a license to sell beer and wine and a license to sell liquor by the drink on the restaurant premises holds multiple licenses for the same location. A license holder operating separate, side-by-side retail stores for off-premises consumption, one under a license to sell liquor at retail and the other under a license to sell beer and wine, maintains licenses at locations that are in close proximity.

### **I. Beer and Wine (Chapter 4)--Off-Premise Consumption (Retail Sale) and On-Premise Consumption**

Holders of permits issued under Chapter 4, Title 61 are prohibited from knowingly committing the following acts:

- a. Selling/transferring beer and/or wine to a person under 21 years of age (61-4-580(A)(1); *see also* Regulation 7-200.4);
- b. Selling beer or wine to an intoxicated person (61-4-580(A)(2));
- c. Permitting gambling or games of chance except certain game promotions (61-4-580(A)(3));<sup>4</sup>
- d. Permitting lewd, immoral, or improper entertainment (61-4-580(A)(4));

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<sup>4</sup> The possession of illegal gambling/gaming devices is unlawful and constitutes a crime under S.C. Code Ann. § 12-21-2710. Accordingly, the Department reserves the right to issue an administrative violation under section 61-4-580(5) instead of section 61-4-580(3) should a case arise where such a change in the Department’s procedure is appropriate. In those cases, the Department may issue an administrative violation under section 61-4-580(5) for possession of illegal gambling/gaming machines on the licensed premises, after a magistrate finds the machines to be illegal in a civil forfeiture proceeding under S.C. Code Ann. §12-21-2712. No criminal citation or conviction will be required. According to section 12-21-2712, the Magistrate Court determines the legality of machines seized by any law enforcement officer. *See Mims Amusement Co. v. S.C. Law Enforcement Div.*, 366 S.C. 141, 621 S.E.2d 344 (2005), and *Allendale County Sheriff’s Office v. Two Chess Challenge II*, 361 S.C. 581, 606 S.E.2d 471 (2004).

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- e. Permitting any act that constitutes a crime under the laws of South Carolina (61-4-580(A)(5));
- f. Permitting any act that tends to create a public nuisance (61-4-580(A)(5));
- g. Selling, offering for sale, or possessing any beverage or alcoholic liquors the sale or possession of which is prohibited on the licensed premises under the law of this State (61-4-580(6)); and
- h. Conducting, operating, organizing, promoting, advertising, running, or participating in a “drinking contest” or “drinking game” (61-4-580(7)).

As required by the Act, a permittee or licensee who violates any of these provisions shall receive the following penalties<sup>5</sup>:

- 1) First offense shall be fined two thousand five hundred (\$2,500) dollars by the Department;
- 2) Second offense within two years of the first offense results in a suspension of the holder’s permit for up to fourteen (14) days as determined by the Department; and
- 3) Third offense within three years of the first offense results in a revocation of the permit.<sup>6</sup>

The penalties for violating other provisions of in Title 61 applicable to holders of beer and wine permits are as follows:

- 1. Failure to maintain/produce physical or electronic copies of alcohol server certificates for all managers and alcohol servers throughout their employment (61-3-110(B)):<sup>7</sup> - \$100 per violation
- 2. Permitting the service of alcohol for on-premises consumption by an individual(s) who has not completed an alcohol server training program approved by the Department (61-3-110):<sup>8</sup> - \$500 per violation

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<sup>5</sup> For detailed information on how these penalties affect collegiate sporting venues permitted under S.C. Code Ann. § 61-4-520, see S.C. Revenue Procedure #25-2.

<sup>6</sup> 2025 S.C. Acts 42.

<sup>7</sup> The requirement to maintain/produce physical or electronic copies of alcohol server certificates for all managers and alcohol servers throughout their employment only applies to permits and licenses for on-premise consumption. *See* S.C. Code Ann. § 61-3-100, et al.

<sup>8</sup> *See* footnote 7; any requirements regarding the mandatory alcohol server training set forth in Chapter 3, Title 61, only apply to permits and licenses for on-premise consumption. *See* S.C. Code Ann. § 61-3-100, et al.

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3. Permitting an alcohol server to be mentally or physically impaired or intoxicated by alcohol, drugs, or controlled substances while serving alcohol on behalf of the licensee (61-3-110(A)):

1st offense	- \$100 fine
2nd offense	- \$500 fine
3rd offense	- \$1,000 fine and a 5-day suspension
4th offense	- 30-day suspension
4. Failure to use a forensic digital identification system to Validate the identification of a person attempting to enter the licensed premises (61-2-145(F)):<sup>9</sup> - \$750 per violation
5. Hindering/delaying inspection (61-4-230 and 61-4-250):

1st offense	- \$200 + 30 day suspension
2nd offense	- Revocation
6. Licensee or Principal (including an undisclosed Principal) not of good moral character (61-2-100(D) and 61-4-520(1)):  
- Revocation
7. Failure to maintain required amount of liability insurance (61-2-145 and 61-4-250)<sup>10</sup> - Indefinite Suspension
8. Failure to comply with the sign requirements, or to conspicuously post a retail permit (61-4-70, 61-4-900, and Regs. 7-200.3 and 7-200.5):  
- \$100 per violation
9. Dishonored payments to beer and wine wholesalers (61-4-30 and 61-4-40):  
- See SC Rev. Proc. #12-1

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<sup>9</sup> This requirement only applies to those permittees and licenses who sell alcoholic beverages for on-premises consumption at any time between the hours of 12:00 a.m. and 4:00 a.m. See S.C. Code Ann. § 61-2-145(F).

<sup>10</sup> If a licensee or permittee remains open after 5:00 p.m. to sell alcoholic beverages for on-premise consumption, they may qualify for mitigation of the required annual aggregate limit of their liquor liability insurance if the licensee or permittee can establish one of more of the mitigation factors set forth in S.C. Code Ann. § 61-2-145(E). However, a failure to maintain any claimed mitigation factor is a failure to maintain the required amount of liquor liability insurance, resulting in an indefinite suspension.

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## Mitigating Circumstances for Underage Sales

Prior to the Act, the Department could consider mitigating circumstances when imposing penalties for violations of 61-4-580(A). With the addition of the statutory penalties provided in section 61-4-580(B) pursuant to the Act, the Department no longer has discretion to consider mitigating circumstances when applying the Section 61-4-580(B) penalties. However, Section 61-4-580(B)(2) allows the Department discretion to determine the proper suspension duration (up to fourteen days) for a second offense of Section 61-4-580(A) within two years of the first offense. As such, the Department may reduce a suspension for a second offense under Section 61-4-580(A) from the maximum fourteen days if the following mitigating circumstances exist:

1. The permittee has documentation demonstrating that it has given in-house training to the offending employee on a regular and frequent basis. This in-house training must contain instruction relevant to the prevention of underage sales. The permittee must provide a copy of the materials used in the training.<sup>11</sup>
2. The permittee utilizes internal, random checks of sales locations (*e.g.*, visit to the offending store by a mystery shopper) to reasonably determine that sales procedures and identification verification procedures comply with established protocol. The permittee must have conducted this internal check within a reasonable period of time prior to the offense. This internal check must be relevant to the prevention of underage sales.
3. The permittee utilizes forensic digital identification systems, or other means acceptable to the Department, to verify the authenticity of identification at the point of sale.<sup>12</sup>

If recognized mitigating circumstances are present, the Department may, in its discretion, reduce suspensions under Section 61-4-580(B)(2) in duration. A permittee may offer other mitigating circumstances, but in every case the determination as to whether mitigating circumstances warrant a reduction in a suspension under Section 61-4-580(B)(2) is within the sole discretion of the Department. The Department does not consider the adverse financial impact that a suspension will have on a permit holder to be a mitigating circumstance.

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<sup>11</sup> For the Department to consider this as a mitigating circumstance for those who are licensed for on-premises consumption under Article 5, this in-house training would have to be in addition to the alcohol server training mandated to all on-premise licensees in Chapter 3, Title 61.

<sup>12</sup> Section 61-2-145(F) requires all permittees and licensees who sell alcoholic beverages for on-premises consumption at any time between the hours of 12:00 a.m. and 4:00 a.m. to use a forensic digital identification system that validates the identification of any person attempting to enter the premises as a patron. If a permittee falls within this category of permittees who sell alcoholic beverages for on-premises consumption between any time between the hours of 12:00 a.m. and 4:00 a.m., the permittee cannot use this mitigating circumstance as a means to try and reduce a suspension under Section 61-4-580(B)(2).

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## *Aggravating Circumstances for Underage Sales*

If aggravating circumstances are present in an underage sale for beer and wine permit holders, the Department may impose a harsher penalty than set forth in this advisory opinion. In every case, the determination as to whether aggravating circumstances warrant an escalation in penalties is within the sole discretion of the Department, although the Department will not impose a sanction outside of the statutory authority granted by the General Assembly. Examples of aggravating circumstances include, but are not limited to, the following:

1. The permittee's prior violations, if any, are predominately or exclusively for sales to underage individuals.
2. The permittee or its agent or employee who committed the offense did so by knowingly bypassing or overriding the permittee's age verification system. This includes, but is not limited to, the use of an override feature in the system or the knowing input of false information into the system in order to facilitate the sale.
3. The permittee or its agent or employee who committed the offense failed to request personal identification during the sale of alcoholic liquors, beer, or wine.
4. Evidence demonstrating the permit holder's disregard for complying with the alcohol laws of this state, including, but not limited to, evidence which indicates a lack of effort on the part of the permit holder to mitigate any future offenses occurring within its licensed premises.
5. Input from law enforcement regarding the detrimental nature of the permittee's business operations.
6. Evidence demonstrating that the permit holder has failed to comply with the alcohol laws of this state at other licensed locations owned or controlled (in whole or in part) by the permit holder.

## **II. Alcoholic Liquor by the Drink—On-Premise Consumption (Article 5, Chapter 6)**

1. All offenses except as specified below or as otherwise specified by statute:\*

1st offense

- \$500<sup>13</sup>

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<sup>13</sup> When determining penalties for certain offenses, the Department must operate within the penalty boundaries set by statute. For offenses occurring under Article 5, Chapter 6 of Title 61 (titled "Regulation of Alcoholic Liquors"), the maximum amount of a monetary penalty allowed under the statute is \$500. *See* S.C. Code Ann. § 61-6-2600. Furthermore, the maximum offenses allowed before the Department is mandated to seek a permanent revocation of the license is three. *See* S.C. Code Ann. § 61-6-2600.



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2nd offense	- \$500 + 30-day suspension
3rd offense	- \$500 and Permanent revocation

\* To determine which of the progressive penalties applies to a particular violation, the Department will look at the total number of violations committed during a three (3) year lookback period, not just the number of a specific type of violation. For example, if a licensee refills a bottle of liquor and within three (3) years sells liquor to a minor, the sale to a minor will be penalized as a second offense against the license. Generally, each violation counts as an offense for purposes of the progressive penalty structure. However, at the Department's discretion, and for purposes of counting the number of violations in the lookback period only, multiple violations within the same calendar day may be counted as one offense even though the Department assesses separate penalties for each violation.

- |   |                                    |
|---|------------------------------------|
| 2. Failure to be primarily engaged in the preparation and serving of meals (61-6-1820):   | - Revocation                       |
| 3. Hindering/delaying inspection (61-6-4190):   |                                    |
| 1st offense   | - \$200 + 30-day suspension        |
| 2nd offense   | - Revocation                       |
| 4. License holder or principal not of good moral Character (61-2-100):  | - Revocation                       |
| 5. Failure to comply with the sign requirements, or to conspicuously post a retail license (61-6-1530, 61-6-1800, and Regs. 7-200.3 and 7-200.5):                                     | - \$100 per violation              |
| 6. Failure to report and remit taxes (61-6-2600(4))   | - \$1,000 and Permanent Revocation |
| 7. Failure to maintain required amount of liability insurance (61-2-145)  | - Indefinite Suspension            |
| 8. Failure to maintain/produce physical or electronic copies of alcohol server certificates for all managers and alcohol servers throughout their employment (61-3-110(B)):           | - \$100 per violation              |
| 9. Permitting the service of alcohol for on-premises consumption by an individual(s) who have not completed an alcohol server training program approved by the Department (61-3-110): | - \$500 per violation              |



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10. Permitting an alcohol server to be mentally or physically impaired or intoxicated by alcohol, drugs, or controlled substances while serving alcohol on behalf of the licensee (61-3-110(A)):

1st offense	-\$100 fine
2nd offense	-\$500 fine
3rd offense	-\$1,000 fine and a 5-day suspension
4th offense	-30-day suspension

11. Failure to use a forensic digital identification system to validate the identification of a person attempting to enter the licensed premises (61-2-145(F)):<sup>14</sup> - \$750 per violation

### **III. Alcoholic Liquor Retail Sale—Off-Premise Consumption (Article 3, Chapter 6)**

1. All offenses except as specified below or as otherwise specified by statute:\*

1st offense	- \$1,000
2nd offense	- \$1,000 + 7-day suspension
3rd offense	- \$1,000 + 30-day suspension
4th offense	- Revocation <sup>15</sup>

\* To determine which of the progressive penalties applies to a particular violation, the Department will look at the total number of violations committed during a three (3) year lookback period, not just the number of a specific type of violation. For example, if a licensee refills a bottle of liquor and within three (3) years sells liquor to a minor, the sale to a minor will be penalized as a second offense against the license. Generally, each violation counts as an offense for purposes of the progressive penalty structure. However, at the Department's discretion, and for purposes of counting the number of violations in the lookback period only, multiple violations within the same calendar day may be counted as one offense even though the Department assesses separate penalties for each violation.

2. Interest in more than 6 retail stores (61-6-141): - Revocation

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<sup>14</sup> This requirement only applies to those permittees and licenses who sell alcoholic beverages for on-premises consumption at any time between the hours of 12:00 a.m. and 4:00 a.m. See S.C. Code Ann. § 61-2-145(F).

<sup>15</sup> Whenever a retail liquor dealer licensed under Article 3, Chapter 6 of Title 61 has sold or permitted the sale of alcoholic liquors to a person under the age of twenty-one four (4) or more times within three (3) years, the Department shall suspend or revoke the retail liquor license and shall not accept a monetary penalty in lieu of said suspension or revocation. See S.C. Code Ann. Regs. 7-302.

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3. Hindering/delaying inspection (61-6-4190):

- |             |                             |
|-------------|-----------------------------|
| 1st offense | - \$200 + 30-day suspension |
| 2nd offense | - Revocation                |

4. License holder, or person having actual control/  
Principal not of good repute or moral character  
(61-2-100(D) and 61-6-110):

- Revocation

5. Failure to comply with the sign requirements,  
or to conspicuously post a retail license  
(61-6-1530, and Regs. 7-200.3 and 7-200.5):

- \$100 per violation

6. Dishonored payments to liquor wholesalers  
(61-6-940, 61-6-1300(5), and Reg. 7-300.3):

- *See* SC Rev. Proc. #12-2

7. Refill, partially refill, or reuse a bottle of  
lawfully purchased alcohol liquor, or  
otherwise tamper with the contents of  
the bottle (61-6-1500(B)(1) and (2))

- |             |                               |
|-------------|-------------------------------|
| 1st offense | - \$500                       |
| 2nd offense | - \$1,000                     |
| 3rd offense | - \$1,000 + 30-day suspension |
| 4th offense | - Revocation                  |

In the event of a criminal conviction based on a violation of S.C. Code Ann. § 61-6-1500(B)(1) the Department must permanently revoke the license regardless of the number of offenses. *See* S.C. Code Ann. § 61-6-1500(B)(4).

8. Sale of alcoholic liquors from one retail  
dealer to another or improper transfer between  
locations owned by the same retail dealer  
(61-6-1500(A)(1)(f) and (B)(3), and Reg. 7-300.4)

- |             |                               |
|-------------|-------------------------------|
| 1st offense | - \$500                       |
| 2nd offense | - \$1,000                     |
| 3rd offense | - \$1,000 + 30-day suspension |
| 4th offense | - Revocation                  |

9. Purchase alcoholic liquors from another  
retail dealer or accepting an improper transfer from  
another retail location owned by the same retail dealer  
(61-6-1500(A)(5) and (B)(3), and Reg. 7-300.4)

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1st offense	- 30-day suspension
2nd offense	- 30-day suspension
3rd offense	- 30-day suspension
4th offense	- Revocation

## Mitigating Circumstances for Underage Sales

Specifically for the purpose of assessing penalties for sales to underage persons for licenses issued under either Article 3 or 5, Chapter 6 of Title 61, the Department may reduce any suggested penalty established in this advisory opinion when the following mitigating circumstances exist:

1. The licensee has documentation demonstrating that it has given in-house training to the offending employee on a regular and frequent basis. This in-house training must contain instruction relevant to the prevention of underage sales. The licensee must provide a copy of the materials used in the training.
2. The licensee utilizes internal, random checks of sales locations (e.g., visit to the offending store by a mystery shopper) to reasonably determine that sales procedures and identification verification procedures comply with established protocol. The licensee must have conducted this internal check within a reasonable period of time prior to the offense. This internal check must be relevant to the prevention of underage sales.
3. The licensee utilizes forensic digital identification systems, or other means acceptable to the Department, to verify the authenticity of identification at the point of sale.

If recognized mitigating circumstances are present, suspensions may be reduced in duration, and a revocation may be reduced to a suspension with monetary penalties. Monetary penalties also may be reduced. A licensee may offer other mitigating circumstances, but in every case the determination as to whether mitigating circumstances warrant a reduction in penalties is within the sole discretion of the Department. The Department does not consider the adverse financial impact that a penalty will have on a licensee or permit holder to be a mitigating circumstance.

## Aggravating Circumstances for Underage Sales

If aggravating circumstances are present in an underage sale for liquor license holders, the Department may impose a harsher penalty than that set forth in this advisory opinion. In every case, the determination as to whether aggravating circumstances warrant an escalation in penalties is within the sole discretion of the Department, although the Department will not impose a sanction outside of the statutory authority granted by the General Assembly. Examples of aggravating circumstances include, but are not limited to, the following:

1. The licensee's prior violations, if any, are predominately or exclusively for sales to underage individuals.

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2. The licensee or its agent or employee who committed the offense did so by knowingly bypassing or overriding the licensee's age verification system. This includes, but is not limited to, the use of an override feature in the system or the knowing input of false information into the system in order to facilitate the sale.
3. The licensee or its agent or employee who committed the offense failed to request personal identification during the sale of alcoholic liquors, beer, or wine.
4. Evidence demonstrating the license holder's disregard for complying with the alcohol laws of this state, including, but not limited to, evidence which indicates a lack of effort on the part of the license holder to mitigate any future offenses occurring within its licensed premises.
5. Input from law enforcement regarding the nature of the licensee's business operations.
6. Evidence demonstrating that the license holder has failed to comply with the alcohol laws of this state at other licensed locations owned or controlled (in whole or in part) by the license holder.

## **IV. Alcoholic Liquor Manufacturers and Micro-Distilleries (Article 3, Chapter 6)**

1. All offenses under S.C. Code Ann. §§ 61-6-1100, 61-6-1140, and 61-6-1150, except as otherwise specified by statute\*:

1st offense	- \$250 <sup>16</sup>
2nd offense	- \$500 + 30-day suspension
3rd offense	- \$500 + Permanent revocation

\* To determine which of the progressive penalties applies to a particular violation, the Department will look at the total number of violations committed during a three (3) year lookback period, not just the number of a specific type of violation. For example, if a licensee refills a bottle of liquor and within three (3) years sells liquor to a minor, the sale to a minor will be penalized as a second offense against the license. Generally, each violation counts as an offense for purposes of the progressive penalty structure. However, at the Department's discretion, and for purposes of counting the number of violations in the lookback period only, multiple violations within the same calendar day may be counted as one offense even though the Department assesses separate penalties for each violation.

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<sup>16</sup> When determining penalties for certain offenses, the Department must operate within the penalty boundaries set by statute. For offenses occurring under Subarticle 11 of Article 3, Chapter 6 of Title 61 (titled "Regulation of Manufacturers and Micro-Distilleries"), the maximum amount of a monetary penalty allowed is \$500. See S.C. Code Ann. § 61-6-1160. Furthermore, the maximum offenses allowed before the Department is mandated to seek a permanent revocation of the license is three. See S.C. Code Ann. § 61-6-1160.

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2. License holder, or person having actual control/  
Principal not of good repute or good moral  
character (61-2-100 and 61-6-110): - Revocation
3. Hindering/delaying inspection (61-4-230,  
61-4-250, and 61-6-4190):  
  
1st offense - \$200 + 30-day suspension  
2nd offense - Revocation
4. Failure to report and remit excise taxes  
(61-6-1160(C)) - \$1,000 and Permanent revocation

## V. Wholesale Beer and Wine (Chapter 4) and Wholesale Alcoholic Liquor (Article 3, Chapter 6)

1. All offenses except as specified below or as otherwise specified by statute\*:

- |             |                              |
|-------------|------------------------------|
| 1st offense | - \$1,000                    |
| 2nd offense | - \$1,500 + 5-day suspension |
| 3rd offense | - 30-day suspension          |
| 4th offense | - Revocation                 |

\* To determine which of the progressive penalties applies to a particular violation, the Department will look at the total number of violations committed during a three (3) year lookback period, not just the number of a specific type of violation. For example, if a licensee refills a bottle of liquor and within three (3) years sells liquor to a minor, the sale to a minor will be penalized as a second offense against the license. Generally, each violation counts as an offense for purposes of the progressive penalty structure. However, at the Department's discretion, and for purposes of counting the number of violations in the lookback period only, multiple violations within the same calendar day may be counted as one offense even though the Department assesses separate penalties for each violation.

2. License holder, or person having actual control/  
Principal not of good repute or good moral  
character (61-2-100 and 61-6-110): - Revocation
3. Hindering/delaying inspection (61-4-230,  
61-4-250, and 61-6-4190):  
  
1st offense - \$200 + 30-day suspension  
2nd offense - Revocation

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4. License holder, or person acting on behalf of the license holder, having an interest in a retail or manufacturing business  
(61-4-735, 61-6-930, and 61-4-940): - Revocation

## **VI. Out-Of-State Wine Shippers (S.C. Code Ann. § 61-4-747)**

Title 61 provides a license for manufacturers of wine located within this State or outside this State, who hold a wine producer and blenders basic permit issued in accordance with the Federal Alcohol Administration Act, to obtain an out-of-state shipper's license. *See* S.C. Code Ann. § 61-4-747(A). This license allows license holders to ship up to twenty-four (24) bottles of wine each month directly to a resident of South Carolina who is at least twenty-one (21) years of age for such resident's personal use and not for resale. *Id.*

If the license is granted to an applicant, the license holder shall permit the Department to perform an audit of the license holder's out-of-state shipper's records upon the Department's request. *See* S.C. Code Ann. § 61-4-747(C)(5).

If an audit reveals that the holder of an out-of-state shipper's license has failed to abide by the restrictions provided in S.C. Code Ann. § 61-4-747, the Department's Alcohol Beverage Licensing Section shall seek the following penalties:

1st offense	- 30 day suspension
2nd offense	- 90 day suspension
3rd offense	- Revocation

The license holder will have the opportunity to protest the Department's proposed suspension or revocation of the license pursuant to the Revenue Procedures Act (RPA). *See* S.C. Code Ann. § 12-60-1310. If the license holder submits a timely protest to the Department pursuant to section 12-60-1310 regarding the Department's proposed suspension or revocation of its out-of-state shipper's license, the Department, through the Department's Office of General Counsel, may accept payment of an offer in compromise in lieu of a suspension. *See* S.C. Code Ann. § 61-4-747(F).

## **VII. Winery Satellite Certificates (S.C. Code Ann. § 61-4-748)**

Title 61 provides an opportunity for wineries to obtain a manufacturer's satellite certificate ("certificate") and may establish up to three wholly owned satellite locations for tasting and sale of wine produced or imported as the primary American source of supply. To be eligible for a certificate, the winery must:

- (1) Be the holder of a valid winery license;

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- (2) Invest four hundred million dollars in this State in a Tier III or Tier IV county<sup>17</sup> at the time of the public announcement of the project or upon reaching such investment and job requirement thresholds; and
  - (3) Create at least three hundred (300) new jobs in this State.
1. All offenses of S.C. Code Ann § 61-4-748 except as specified below or as otherwise specified by statute will receive the following penalties:\*

1st offense	- \$500
2nd offense	- \$1,000
3rd offense	- \$1,000 + 5-day suspension
4th offense	-30-day suspension
5th offense	- Revocation

\* To determine which of the progressive penalties applies to a particular violation, the Department will look at the total number of violations committed during a three (3) year lookback period, not just the number of a specific type of violation. For example, if a licensee does not close to the public by 5:30 p.m. (*See* S.C. Code Ann. § 61-4-748(C)) and within three (3) years offers a tasting to someone under the age of twenty-one (*See* S.C. Code Ann. § 61-4-748(A)(14)), the sale to a someone under the age of twenty-one will be penalized as a second offense against the license. Generally, each violation counts as an offense for purposes of the progressive penalty structure. However, at the Department's discretion, and for purposes of counting the number of violations in the lookback period only, multiple violations within the same calendar day may be counted as one offense even though the Department assesses separate penalties for each violation.

2. Failure to satisfy all applicable investment and job requirement thresholds (61-4-748(A)(1)) -Revocation
3. Failure to maintain required amount of liability insurance (61-4-748(A)(13)) - Indefinite Suspension
4. Failure to report and remit applicable sales, use, and other state and local taxes for each tasting-room premises (61-4-748(A)(11)) -\$1,000 and revocation

## **EMERGENCY SUSPENSIONS (S.C. Code Ann. §§ 1-23-370(c) and 12-60-1340)**

### *Public Health, Safety, or Welfare*

If the Department finds that the public health, safety, or welfare imperatively requires emergency

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<sup>17</sup> Such investments must be made on or after January 1, 2021 in order for the winery to be eligible for the certificate. Further, the investment must be made in this State in a Tier III or Tier IV county as they are designated by the Department pursuant to S.C. Code Ann. § 12-6-3360(B).



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action, the Department may summarily suspend any license issued by the Department under Title 61, as provided in the South Carolina Administrative Procedures Act. *See* S.C. Code Ann. § 1-23-370. This emergency suspension departs from the Department's standard process for violations of Title 61 as detailed above. The Department will summarily suspend a license pending a determination from the Administrative Law Court (ALC) regarding whether the license should be revoked.

Emergency situations affecting the public health, safety, or welfare will typically involve facts and evidence indicating that (1) the license holder knowingly permits or fails to take reasonable measures to prevent acts inside of or within close proximity of the licensed premises which threaten the public health, safety or welfare, and (2) due to these acts, the license holder no longer holds a reputation for peace and good order within the community.

Situations where the Department will summarily suspend a license pending a hearing on the revocation of the license include, but are not limited to, the following:

1. There is evidence that criminal activity associated with the licensed premises has occurred and has threatened or will likely threaten the health, safety and welfare of the public. Such criminal activity includes, but is not limited to, the discharge of a firearm, assault and battery, drive-by shootings, drug activity, gang activity, assault with a deadly weapon, manslaughter, murder, or malicious destruction to real/personal property.
2. The criminal activity associated with the licensed premises has placed a strain on law enforcement, either by repeated responses by law enforcement for calls for service at or regarding the licensed premises or by law enforcement's need to utilize other resources to monitor the licensed premises or both.

The Department will determine on a case-by-case basis whether the facts and circumstances warrant an emergency summary suspension of the license.

If, after an investigation is conducted by local law enforcement and/or South Carolina Law Enforcement Division (SLED), the Department determines that the facts and circumstances warrant an emergency summary suspension, the Department will notify the license holder by way of an administrative order that its license(s) are immediately suspended pursuant to section 1-23-370(C) and will provide the basis for the suspension.

The Department will also issue a Department Determination to the license holder, expressing the Department's intent to seek a revocation of the license(s). Simultaneously, the Department will request an expedited hearing with the ALC pursuant to section 12-60-1340 seeking an order of revocation from the ALC. The Department may support its summary suspension and/or its request for an order of revocation with an affidavit(s) from local law enforcement or SLED.

All filings with the ALC will be served upon the licensee via U.S. Mail at the mailing address on file with the Department's Alcohol Beverage Licensing section.

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### *Failure to Maintain Liquor Liability Insurance*

Failure of a licensee to maintain the required amount of liquor liability insurance in accordance with S.C. Code Ann. § 61-4-125 is sufficient grounds for the Department to seek an emergency revocation order as provided in as provided in S.C. Code Ann. § 12-60-1340 and in the South Carolina Administrative Procedures Act. *See* S.C. Code Ann. § 1-23-370(c). The determination of whether a licensee's failure to maintain the required liquor liability insurance warrants an emergency summary suspension is determined on a case-by-case basis.

If, after an internal investigation by the Department, the Department determines that the facts and circumstances warrant an emergency summary suspension, the Department will notify the license holder by way of an administrative order that its license(s) are immediately suspended pursuant to section 1-23-370(c) and will provide the basis for the suspension.

The Department will also issue a Department Determination to the license holder, expressing the Department's intent to seek a revocation of the license(s). Simultaneously, the Department will request an expedited hearing with the ALC pursuant to section 12-60-1340 seeking an order of revocation from the ALC. The Department may support its summary suspension and/or its request for an order of revocation with an affidavit(s) from Department personnel.

All filings with the ALC will be served upon the licensee via U.S. Mail at the mailing address on file with the Department's Alcohol Beverage Licensing section.