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CHAPTER 6

Alcoholic Beverage Control Act

ARTICLE 1

General Provisions

**SECTION 61‑6‑10.** Name.

 This chapter is known and may be cited as “The Alcoholic Beverage Control Act” (ABC Act).

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑20.** Definitions.

 As used in the ABC Act, unless the context clearly requires otherwise:

 (1)(a) “Alcoholic liquors” or “alcoholic beverages” means any spirituous malt, vinous, fermented, brewed (whether lager or rice beer), or other liquors or a compound or mixture of them, including, but not limited to, a powdered or crystalline alcohol, by whatever name called or known, which contains alcohol and is used as a beverage for human consumption, but does not include:

 (i) wine when manufactured or made for home consumption and which is not sold by the maker of the wine or by another person; or

 (ii) a beverage declared by statute to be nonalcoholic or nonintoxicating.

 (b) “Alcoholic liquor by the drink” or “alcoholic beverage by the drink” means a drink poured from a container of alcoholic liquor, without regard to the size of the container for consumption on the premises of a business licensed pursuant to Article 5 of this chapter.

 (c) “Powdered or crystalline alcohol” means a powdered or crystalline product prepared or sold for either direct use or reconstitution for human consumption that contains any amount of alcohol when hydrolyzed.

 (2) “Bona fide engaged primarily and substantially in the preparation and serving of meals” means a business that provides facilities for seating not fewer than forty persons simultaneously at tables for the service of meals and that:

 (a) is equipped with a kitchen that is utilized for the cooking, preparation, and serving of meals upon customer request at normal meal times;

 (b) has readily available to its guests and patrons either menus with the listings of various meals offered for service or a listing of available meals and foods, posted in a conspicuous place readily discernible by the guest or patrons; and

 (c) prepares for service to customers, upon the demand of the customer, hot meals at least once each day the business establishment chooses to be open.

 (3) “Homeowners association chartered as a nonprofit by the Secretary of State” means an organization that has been recognized as a nonprofit by the Secretary of State, whose membership is limited to individuals who own property in the residential community, and whose affairs are governed by a board of directors elected by the membership. No member, officer, agent, or employee of the association may be paid a salary or other form of compensation from any of the profit of the sale of alcoholic beverages, except as may be voted on at a meeting of the governing body, nor shall the salaries or compensation be in excess of reasonable compensation for the services actually performed. Additionally, a “homeowners association chartered as a nonprofit by the Secretary of State” must abide by all alcoholic liquor regulations that apply to a nonprofit organization, as defined by Section 61‑6‑20(7), except that upon dissolution of the “homeowners association chartered as a nonprofit by the Secretary of State”, the remaining assets, if any, may be distributed to its members. A “homeowners association chartered as a nonprofit by the Secretary of State” is eligible to be licensed under this chapter only at facilities located within the boundaries of the homeowners association.

 (4) “Manufacturer” means a person operating a plant or place of business in this State for distilling, rectifying, brewing, fermenting, blending, or bottling alcoholic liquors.

 (5) “Furnishing lodging” means those businesses which rent accommodations for lodging to the public on a regular basis consisting of not less than eighteen rooms.

 (6) “Minibottle” means a sealed container of fifty milliliters or less of alcoholic liquor.

 (7) “Nonprofit organization” means an organization not open to the general public, but with a limited membership and established for social, benevolent, patriotic, recreational, or fraternal purposes.

 (8) “Producer”, as used in the ABC Act, means a manufacturer, distiller, rectifier, blender, or bottler of alcoholic liquors and includes an importer of alcoholic liquors engaged in importing alcoholic liquors into the United States.

 (9) “Producer representative” means a person who is a citizen of this State, who maintains his principal place of abode in this State, and who is registered with the department pursuant to Article 7 of this chapter as the South Carolina representative of a registered producer.

 (10) “Registered producer” means a producer who is registered with the department pursuant to Article 7 of this chapter.

 (11) “Retail dealer” means a holder of a license issued under the provisions of Article 3 of this chapter, other than a manufacturer or wholesaler.

 (12) “Wholesaler” means a person who purchases, acquires, or imports from outside this State or who purchases or acquires from a manufacturer in the State alcoholic liquors for resale.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 139, Sections 9, 10; 2006 Act No. 386, Section 50; 2008 Act No. 287, Section 2.A, eff June 11, 2008; 2008 Act No. 320, Section 2, eff upon approval (became law without the Governor’s signature on June 17, 2008); 2011 Act No. 67, Section 1, eff June 17, 2011; 2013 Act No. 87, Section 1, eff June 13, 2013; 2015 Act No. 73 (S.179), Section 1, eff June 5, 2015.

Effect of Amendment

The first 2008 amendment, in item (2), in the introductory sentence substituted “business that provides” for “business which has been issued a Grade A retail establishment food permit prior to issuance of a license under Article 5 of this chapter, and in addition provides”, “fewer” for “less” and added subitems (a) to (c).

The second 2008 amendment made identical changes.

The 2011 amendment inserted subsection (3); and redesignated former subsections (3) to (11) as subsections (4) to (12).

The 2013 amendment substituted “eighteen” for “twenty” in paragraph (5).

2015 Act No. 73, Section 1, in (1)(a), inserted “, including, but not limited to, a powdered or crystalline alcohol,”, inserted a comma following “or known”, and inserted “for human consumption”; and added (1)(c).

**SECTION 61‑6‑30.** Excluded products; violations.

 No provision in the ABC Act applies to alcohol intended for use in the manufacture and sale of any of the following when they are unfit for beverage purposes:

 (1) Denatured alcohol produced and used pursuant to acts of Congress and regulations promulgated thereunder;

 (2) Patent, proprietary, medicinal, pharmaceutical, antiseptic, and toilet preparations;

 (3) Flavoring extracts, syrups, and food products; and

 (4) Scientific, chemical, mechanical, and industrial products.

 A person who knowingly sells any product enumerated in items (1), (2), (3), or (4) for beverage purposes is guilty of a misdemeanor and, upon conviction, is subject to a fine of not more than two hundred dollars or imprisonment of not more than sixty days, or both. No provision of the ABC Act applies to ethyl alcohol intended for use by hospitals, colleges, governmental agencies, or other permittees entitled to obtain this alcohol tax free, as provided by acts of Congress and regulations promulgated thereunder.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑40.** Relationship with other laws.

 The ABC Act is declared to be complementary to and not in conflict with the laws providing for the lawful sale of beers, wines, and other vinous, fermented, or malt liquors.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑50.** Wilful violation of rule or regulation.

 The wilful violation of any rule or regulation made under the provisions of the ABC Act constitutes a violation of the act. The determination of what action constitutes a wilful violation shall be made pursuant to the terms within the provisions of the ABC Act and no regulation shall be promulgated or enforced that exceeds the requirements of the ABC Act.

HISTORY: 1996 Act No. 415, Section 1; 2006 Act No. 386, Section 51.

**SECTION 61‑6‑60.** Administration and enforcement personnel.

 The division may employ inspectors or agents necessary for the proper administration and enforcement of the provisions of the ABC Act. The salaries of these inspectors or agents must be fixed by the division. The Governor shall commission as state constables inspectors or agents as are certified by the division in order that they have adequate authority as peace officers to enforce these provisions. An inspector or agent must, before entering upon the discharge of his duties, take and subscribe the oath of office as required by Article III, Section 2 of the Constitution of South Carolina, and any additional oath required by law, and must give bond payable to the State in a form approved by the Attorney General, in the penal sum of five thousand dollars with some surety or guaranty company authorized to do business in this State and approved by the division, conditioned upon the faithful discharge of his duties. The bonds must be filed with and preserved by the Secretary of State.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑70.** Clerical and other personnel.

 The department and the division may, in their discretion, employ clerical, stenographic, and other personnel, including chemists, necessary to administer the ABC Act, and may prescribe their duties and fix their compensation. The department or the division may require any employee to furnish bond conditioned upon the faithful performance of his duty. The bond must be filed with and preserved by the department or the division.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑80.** Annual reports.

 The department and the division must file annually with the Governor and the General Assembly their annual reports as of June thirtieth of each year, and must report to the Governor on their affairs generally or on special matters as often as he requires.

HISTORY: 1996 Act No. 415, Section 1.

ARTICLE 3

Regulation of Retailers, Wholesalers, and Manufacturers

Subarticle 1

Qualifications of Licensees; Restrictions on Licenses and Licensees

**SECTION 61‑6‑100.** Authority to issue, suspend, and revoke licenses.

 Except as otherwise provided, the department has sole and exclusive power to suspend and revoke all licenses provided for in the ABC Act. The department may issue, subject to revocation, the following licenses under this article:

 (1) manufacturers’ licenses which authorize the licensees to manufacture alcoholic liquors and to sell and deliver or ship them, in accordance with regulations, in bottles or in similar closed containers to a person in this State who has a wholesaler’s license issued under this article, and in barrels, bottles, or other closed containers to persons outside this State. However, no deliveries or shipments may be made into another state whose laws prohibit the consignee from receiving or selling alcoholic liquors;

 (2) wholesalers’ licenses which authorize the licensees to purchase, store, keep, possess, import into this State, transport, sell, and deliver alcoholic liquors in bottles or similar closed containers, in accordance with regulations, to a person having a manufacturer’s or retail dealer’s license issued under this article; and

 (3) retail dealers’ licenses which authorize the licensees to purchase alcoholic liquors from wholesalers having licenses issued under this article, and to store, keep, possess, and sell alcoholic liquors at retail for consumption in compliance with the provisions of the ABC Act and regulations not in conflict herewith.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑110.** Qualifications for license.

 Unless the department in its discretion otherwise orders, no person is eligible for a license under this article or Article 7 of this chapter if he or the person who will have actual control and management of the business proposed to be operated:

 (1) is less than twenty‑one years of age;

 (2) is not a legal resident of the United States and has not been a resident of South Carolina for at least thirty days before the date of application and has maintained his principal place of abode in South Carolina for at least thirty days before the date;

 (3) is not of good repute; or

 (4) has 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.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑120.** Proximity to church, school, or playground; exception.

 (A) The department shall not grant or issue any license provided for in this article, Article 5, or Article 7 of this chapter, if the place of business is within three hundred feet of any church, school, or playground situated within a municipality or within five hundred feet of any church, school, or playground situated outside of a municipality. Such distance shall be computed by following the shortest route of ordinary pedestrian or vehicular travel along the public thoroughfare from the nearest point of the grounds in use as part of such church, school, or playground, which, as used herein, shall be defined as follows:

 (1) “church”, an establishment, other than a private dwelling, where religious services are usually conducted;

 (2) “school”, an establishment, other than a private dwelling where the usual processes of education are usually conducted; and

 (3) “playground”, a place, other than grounds at a private dwelling, which is provided by the public or members of a community for recreation.

 The above restrictions do not apply to the renewal of licenses and they do not apply to new applications for locations which are licensed at the time the new application is filed with the department.

 (B) An applicant for license renewal or for a new license at an existing location shall pay a five dollar certification fee to determine if the exemptions provided for in subsection (A) apply.

 (C)(1) Notwithstanding the provisions of subsection (A), the department may issue a license so long as the provisions of subsection (A) are met in regards to schools, and so long as any playground or church located within the parameters affirmatively states that it does not object to the issuance of a license. This subsection only applies to a permit for on‑premises consumption of alcoholic liquor.

 (2) Any applicant seeking to utilize the provisions of this subsection must provide a statement from the decision‑making body of the owner of the playground or from the decision‑making body of the local church stating that it does not object to the issuance of the specific license sought. If more than one playground or church is located within the parameters set forth in subsection (A), the applicant must provide the statement from all playgrounds and churches.

 (3) The department may promulgate regulations necessary to implement the provisions of this subsection.

HISTORY: 1996 Act No. 415, Section 1; 1996 Act No. 458, Part II, Section 100; 2014 Act No. 253 (H.4399), Section 1, eff June 6, 2014.

Code Commissioner’s Note

1996 Act No. 458, Part II, Section 100 substantially revised former Section 61‑3‑440 which had been recodified by 1996 Act No. 415 Section 1 as Section 61‑6‑120 and repealed by Section 5 of the same Act. At the direction of the Code Commissioner, the amendment by 1996 Act No. 458, Part II, Section 100 is reflected in this section.

Effect of Amendment

2014 Act No. 253, Section 1, in subsection (A), inserted “Article 5,” in the first sentence, and added subsection (C).

**SECTION 61‑6‑130.** Licensees per household.

 No license may be issued to more than one member of a household in this State.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑140.** Licenses per licensee.

 No more than three retail dealer licenses may be issued to one licensee, and the licensee must be eligible for a license for each store pursuant to Section 61‑6‑110.

 No more than three retail dealer licenses may be issued for the use of one corporation, association, partnership, or limited partnership. A corporation having the use of a retail dealer license that is owned by another corporation is considered to be holding the retail dealer license for the use of the owning corporation.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑150.** Licensee’s interest in other retail liquor stores.

 No person, directly or indirectly, individually or as a member of a partnership or an association, as a member or stockholder of a corporation, or as a relative to a person by blood or marriage within the second degree, may have any interest whatsoever in a retail liquor store licensed under this section except the three stores covered by his retail dealer’s licenses, as provided for in Section 61‑6‑140. The prohibitions in this section do not apply to a person having an interest in retail liquor stores on July 1, 1978.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑160.** Unincorporated towns and communities.

 The department may, in its discretion, after investigation by the division, license retail dealers in unincorporated towns and communities when it would be to the interest of the unincorporated town or community to have a licensed retail dealer therein. However, the department may not license a retail dealer in any locality unless the department determines that the locality is under proper police protection.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑170.** Retail dealer licenses per community.

 The department may, in its discretion, limit the further issuance of retail dealer licenses in a political subdivision if it determines that the citizens who desire to purchase alcoholic liquors therein are more than adequately served because of (1) the number of existing retail stores, (2) the location of the stores within the subdivision, or (3) other reasons.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑180.** Notice of application.

 (A) A person who intends to apply for a license under this article or Article 7 of this chapter must advertise at least once a week for three consecutive weeks in a newspaper circulated nearest to the proposed location of the business and most likely to give notice to interested citizens of the county, city, and community in which the applicant proposes to engage in business. The department must determine which newspapers meet the requirements of this section based on available circulation figures and the proposed location of the business. However, if a newspaper is published in the county and historically has been the newspaper where the advertisements are published, the advertisements published in that newspaper meet the requirements of this section. The notice must be in the legal notice section of the paper or in an equivalent section if the newspaper has no legal notice section, be in large type, cover a space one column wide and not less than two inches deep, and state the type of license applied for, and the exact location at which the proposed business is to be operated. An applicant for a beer or wine permit and an alcoholic liquor license may use the same advertisement for both if the advertisement is approved by the department.

 (B) Notice also must be given by displaying a sign for fifteen days at the site of the proposed business. The sign must:

 (1) state the type of license sought;

 (2) state where an interested person may protest the application;

 (3) be in bold type;

 (4) cover a space at least twelve inches high and eighteen inches wide;

 (5) be posted and removed by an agent of the division.

 The provision of this section requiring publication of notice do not apply to a person licensed under the provisions of this article or Article 7 of this chapter when the licensee applies to the department for a renewal of his license to engage in the same business at the same location.

HISTORY: 1996 Act No. 415, Section 1; 2000 Act No. 304, Section 1; 2003 Act No. 70, Section 8.

**SECTION 61‑6‑185.** Protest of issuance or renewal of license; attendance at hearing; court costs and other penalties.

 (A) A person residing in the county in which a retail liquor license is requested to be granted, or a person residing within five miles of the location for which a retail liquor license is requested, may protest the issuance or renewal of the license if he files a written protest providing:

 (1) the name, address, and telephone number of the person filing the protest;

 (2) the name of the applicant for the license and the address of the premises sought to be licensed, or the name and address of the license holder if the application is for renewal;

 (3) the specific reasons why the application should be denied; and

 (4) whether or not he wishes to attend a contested case hearing before the Administrative Law Court.

 (B) Upon receipt of a timely filed protest, the department shall determine the protestant’s intent to attend a contested hearing before the Administrative Law Court. If the protestant intends to attend a contested hearing, the department may not issue the permanent license but shall forward the file to the Administrative Law Court.

 (C) If the protestant during the investigation expresses no desire to attend a contested hearing and offer testimony, the protest is deemed invalid, and the department shall continue to process the application and shall issue the license if all other statutory requirements are met.

 (D) A person who files a protest and fails to appear at a hearing after affirming a desire to attend the hearing may be assessed a penalty to include court costs.

HISTORY: 1998 Act No. 363, Section 2; 2005 Act No. 139, Section 11.

**SECTION 61‑6‑190.** License tax.

 The department must not issue any license until the applicant has paid the license tax required by Chapter 33 of Title 12.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑195.** Retail dealer must certify purchases from wholesaler.

 The department must not issue or renew a retail dealer’s license until the applicant has certified that the applicant has not purchased and will not purchase alcoholic liquors from another person who does not hold a wholesaler’s license.

HISTORY: 2014 Act No. 223 (H.3512), Section 3, eff July 1, 2014.

Subarticle 5

Temporary Permits

**SECTION 61‑6‑500.** Consumption and possession of alcoholic beverages in publicly‑owned auditoriums, coliseums, or armories.

 (A) Notwithstanding any other provision of law, the authorities in charge of a publicly‑owned auditorium, coliseum, or armory may allow the possession and consumption of beer, wine, and alcoholic liquors on their premises.

 (B) It is unlawful for a person to possess or consume beer, wine, or alcoholic liquors on the premises of a publicly‑owned auditorium, coliseum, or armory unless the authorities in charge specifically have approved the possession or consumption of those beverages. A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days.

HISTORY: 1996 Act No. 415, Section 1; 2003 Act No. 70, Section 9.

**SECTION 61‑6‑505.** Temporary retail liquor license upon purchase or acquisition of retail business.

 (A) A person who purchases or acquires by lease, inheritance, divorce decree, eviction, or otherwise a retail business which sells alcoholic beverages from a holder of a retail liquor license at the business, upon initiating the application process for a permanent retail liquor license, may be issued a temporary retail liquor license by the department at the time of the purchase or acquisition if the location for which the temporary license is sought is not considered by the department to be a public nuisance and:

 (1) the applicant currently holds a valid retail liquor license; or

 (2) the applicant has had a criminal history background check conducted by the State Law Enforcement Division within the past thirty days.

 (B) A temporary license issued pursuant to subsection (A) is valid until a permanent license is approved or disapproved by the department, but in no case is it valid for more than one hundred twenty days from the date of issuance.

 (C) Notwithstanding subsection (B), the department may revoke a temporary license if the applicant fails to pursue the permanent license in a timely manner, as set forth by the department by regulation.

 (D) The department shall collect a fee of twenty‑five dollars for each temporary license sought. The funds generated by this fee must be deposited in the general fund of the State.

HISTORY: 1996 Act No. 458, Part II, Section 58A; 1998 Act No. 442, Section 5B.

**SECTION 61‑6‑510.** Repealed by 2010 Act No. 259, Section 4, eff June 11, 2010.

Editor’s Note

Former Section 61‑6‑510 was entitled “Temporary permits for nonprofit organizations; criminal background checks” and was derived from 1996 Act No. 415, Section 1; 2006 Act No. 386, Section 46.

Subarticle 7

License for Wine, Liquors, and Other Beverages Used in Cooking

**SECTION 61‑6‑700.** Food‑service establishments.

 An establishment which offers meals to the public must be licensed by the department to purchase and possess liqueurs, wines, and similar alcoholic beverages used only in the cooking and preparing of foods served by the establishment. Application for the license must be in a form and under conditions prescribed by the department. The license fee is fifty dollars. A person violating this section is guilty of a misdemeanor and, upon conviction, must be fined five hundred dollars, and other licenses he holds from the department pursuant to the provisions of this title must be revoked.

 The license provided in this section does not alter or limit the privileges or responsibilities for holders of licenses issued to authorize the possession, sale, and consumption of alcoholic liquors by the drink pursuant to the provisions of Article 5 of this chapter. An establishment so licensed may use alcoholic liquors in the preparation of food without obtaining the license provided for in this section.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 139, Section 12.

**SECTION 61‑6‑710.** Special food manufacturer’s license.

 Notwithstanding any other provision of this title, a person who manufactures in this State food items such as sauces and marinades in which there is an alcoholic beverage ingredient and who does so under an agreement with the alcoholic beverage manufacturer must apply for a special food manufacturer’s license from the department, in accordance with Section 61‑2‑100, to purchase the alcoholic beverage directly from the manufacturer in containers holding greater quantities of liquor than are sold to a retail consumer. The department must establish the form of the application for the special food manufacturer’s license.

HISTORY: 2003 Act No. 40, Section 1.A.

**SECTION 61‑6‑720.** Licensing of bakeries using alcoholic beverages as ingredients; fee; restriction on use.

 Notwithstanding any other provision of this title, a person who operates in this State a bakery for the preparation of food items, in which food items alcoholic beverages are used as ingredients, and which food items are manufactured for and sold at wholesale, must apply for a special bakery food manufacturer’s license from the department, in accordance with Section 61‑2‑100, to purchase the alcoholic beverages from a wholesaler licensed pursuant to Section 61‑6‑100(2), or from a retailer licensed pursuant to Section 61‑6‑100(3), or from a manufacturer in containers holding greater quantities of alcoholic liquor than wholesalers or retailers have authority to sell. The department must establish the form of the application for the special bakery food manufacturer’s license. The license fee for this biennial license is one thousand dollars. Alcoholic liquor purchased pursuant to this section may only be used in the preparation of food items. The department must revoke the special bakery food manufacturer’s license of any operator which permits the consumption of alcoholic liquor as a beverage of liquor purchased pursuant to this section or which transfers alcoholic liquor purchased pursuant to this section to any other person.

HISTORY: 2006 Act No. 386, Section 19.B.

Subarticle 9

Refusal, Suspension, or Revocation of Licenses

**SECTION 61‑6‑900.** Death of licensee.

 In the event of a licensee’s death, except in the case of a license issued to more than one person, the personal representative of the deceased licensee may, with the consent of the probate court and upon permit of the department, continue the operation of the business covered by the license. If the personal representative elects to discontinue the business or if the department does not issue a permit for its continuance, the unearned portion of the license tax, computed on the basis of the cost of the license per month for the period for which the license was issued, must be refunded to the personal representative. Alcoholic liquors of the deceased which are subject to the control of the personal representative may be sold by him as provided in Section 61‑6‑950.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑910.** Qualifications for license.

 The department must refuse to issue any license under this article or Article 7 of this chapter if the department is of the opinion that:

 (1) the applicant is not a suitable person to be so licensed;

 (2) the store or place of business to be occupied by the applicant is not a suitable place; or

 (3) a sufficient number of licenses have already been issued in the State, incorporated municipality, unincorporated community, or other community.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑920.** Suspension or revocation of license.

 The department may suspend or revoke a license issued under this article or Article 7 of this chapter if it determines that:

 (1) the licensee is not a suitable person to hold the license; or

 (2) the store or place of business occupied by the licensee is not a suitable place.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑930.** Revocation of wholesaler’s license.

 The department must revoke the license of a wholesaler if proof is obtained that the wholesaler has a direct or an indirect interest in a retail store.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑940.** Indebtedness of retailer to wholesaler.

 The department must immediately revoke a retail license to sell alcoholic liquors if the licensee or an officer of the licensee is, during the effective period of the license, indebted to a wholesaler licensed by the department, except an indebtedness for current purchases of alcoholic liquors which are not past due.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑950.** Sale of alcoholic liquors by former licensee.

 Alcoholic liquors owned by or in possession of a licensee for sale at the time the license is suspended or revoked or otherwise terminated may, upon the issuance by the department of a permit, within the time fixed in the permit, and upon those conditions as the department specifies, be sold by the licensee to licensed manufacturers, wholesalers, or retail dealers or may, upon a permit issued by the department and within the time fixed in the permit, be sold to persons outside this State for resale outside the State. However, no deliveries or shipments may be made into another state whose laws prohibit the consignee from receiving or selling alcoholic liquors. The time fixed by the department in a permit under this section must not be less than sixty days.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑1035.** Sampling of wines.

 Notwithstanding the provisions of Section 61‑6‑1500, the sampling of wines containing over sixteen percent by volume of alcohol, cordials, and other distilled spirits sold in a retail alcoholic liquor store is authorized if the sampling is conducted as follows:

 (1) No sample may be offered from more than four products at one time.

 (2) The sample is limited to products from no more than one wholesaler at one time.

 (3) No more than one bottle of each of the four products to be sampled may be opened.

 (4) The sampling must be held in a designated tasting area of the retail liquor store and all open bottles must be visible at all times. All open bottles must be removed at the conclusion of the tasting.

 (5) Samples must be less than one‑half ounce for each product sampled.

 (6) No person may be served more than one sample of each product.

 (7) No sampling may be offered for longer than four hours.

 (8) At least ten days before the sampling, a letter detailing the specific date and hours of the sampling must be mailed first class to the South Carolina Law Enforcement Division. The letter must include a copy of a certificate of liability insurance for the manufacturer, the retail establishment, or its agent, conducting the tastings.

 (9) No sample may be offered to, or allowed to be consumed by, an intoxicated person or a person under the age of twenty‑one years. This person must not be allowed to loiter on the store premises.

 (10) The tastings must be conducted by the manufacturer, retailer, or an agent of the manufacturer or retailer, and must not be conducted by a wholesaler, an employee of a wholesaler, or an agent of a wholesaler.

 (11) No retail alcoholic liquor store may offer more than one sampling per day.

 (12) All product samples used for tastings must be purchased by the retailer from a South Carolina Licensed Wholesaler as required by Section 61‑6‑100(3).

 (13) All associated costs for the tasting must be paid for by the manufacturer, the retailer, or its agent, conducting the tasting.

HISTORY: 2002 Act No. 335, Section 1; 2011 Act No. 66, Section 1, eff June 17, 2011.

Effect of Amendment

The 2011 amendment, in paragraph (1), deleted “any” preceding “one time”; inserted a new paragraph (2); redesignated former paragraphs (2) to (10) as paragraphs (3) to (11); in paragraph (8), added the second sentence; in paragraph (10), inserted “, retailer,” following “conducted by the manufacturer”, inserted “or retailer” following “agent of the manufacturer”, substituted “an employee of a wholesaler, or an agent of a wholesaler” for “retailer, or employee of a wholesaler or retailer”; and added paragraphs (12) and (13).

Subarticle 11

Regulation of Manufacturers and Micro‑Distilleries

**SECTION 61‑6‑1095.** Definitions

 For the purposes of this subarticle:

 (A) “Micro‑distillery” means a manufacturer who distills, blends, and bottles alcoholic liquors on the licensed premises in this State with an alcohol content greater than seventeen percent and who produces a maximum quantity of one hundred twenty‑five thousand cases per year at the licensed premises.

 (B) “Licensed premises” means a location where the micro‑distillery or manufacturer is licensed pursuant to this subarticle for the manufacture, tasting, and retail sales of alcoholic liquors produced at the licensed location and includes those areas normally used by the licensee to conduct his business, and includes the producing areas, storage areas, tasting areas, selling areas, and parking lots.

 (C) “Person” means an individual, partnership, corporation, or other form of business entity.

HISTORY: 2009 Act No. 11, Section 1, eff May 6, 2009.

**SECTION 61‑6‑1100.** Restrictions upon manufacturers.

 A manufacturer may not own or operate more than one plant, establishment, or place of business for the manufacture of alcoholic liquors in any one county of this State, nor may he permit the drinking of alcoholic liquors on his premises, except as otherwise authorized by this subarticle.

HISTORY: 1996 Act No. 415, Section 1; 2009 Act No. 11, Section 1, eff May 6, 2009.

Effect of Amendment

The 2009 amendment added at the end “, except as otherwise authorized by this subarticle” and made nonsubstantive changes.

**SECTION 61‑6‑1110.** Manufacturer’s license; fee.

 The department may issue a manufacturer’s license to a person to manufacture alcoholic liquors in the State subject to the requirements of this chapter and a payment of a biennial manufacturer license fee of fifty thousand dollars. This section is not applicable to a micro‑distillery as defined and licensed pursuant to the provisions of this subarticle.

HISTORY: 2009 Act No. 11, Section 1, eff May 6, 2009.

**SECTION 61‑6‑1120.** Micro‑distillery licenses; fee.

 (A) The department may issue a micro‑distillery license to a person to operate one micro‑distillery in the State subject to the requirements of this chapter and payment of a biennial micro‑distillery license fee of five thousand dollars.

 (B) A micro‑distillery is not required to obtain an additional manufacturing and retail liquor license required pursuant to this title.

HISTORY: 2009 Act No. 11, Section 1, eff May 6, 2009.

**SECTION 61‑6‑1130.** Tastings and sales of alcoholic liquors to consumers at licensed premises; remission of taxes; maintenance of records.

 (A) A micro‑distillery or manufacturer desiring to offer tastings and sales of alcoholic liquors to consumers at its licensed premises shall remit taxes to the department for alcoholic liquors sold and dispensed in an amount equal to taxes paid by wholesalers on alcoholic liquors.

 (B) Alcoholic liquors produced and sold on a licensed premises pursuant to this subarticle must be taxed and remitted as provided in Chapter 33, Title 12. The micro‑distillery or manufacturer licensee shall maintain adequate records to ensure the collection of this tax.

HISTORY: 2009 Act No. 11, Section 1, eff May 6, 2009.

**SECTION 61‑6‑1140.** Tastings and retail sales on licensed premises; limitations.

 A holder of a valid micro‑distillery or manufacturer license issued by the State may permit tastings and retail sales of the alcoholic liquors produced at the licensed premises subject to the following limitations and any other limitations provided in this subarticle:

 (1) tastings by and sales to consumers must be held in conjunction with a tour by the consumer of the on‑site licensed premises;

 (2) the micro‑distillery or manufacturer shall establish appropriate protocols to ensure that a consumer sold or served alcoholic liquors pursuant to this section is not under twenty‑one years of age and that a consumer shall not attend more than one tasting in a day;

 (3) the micro‑distillery or manufacturer shall dispense alcoholic liquors for tasting in quantities not greater than one‑half ounce per sample;

 (4) the micro‑distillery or manufacturer may not dispense more than one and one‑half ounces to an individual consumer in one day;

 (5) tastings and sales may occur only between the hours of nine a.m. and seven p.m., Monday through Saturday;

 (6) the micro‑distillery or manufacturer may charge for alcoholic liquors consumed at a tasting, but must collect and remit the liquor by the drink excise tax pursuant to the provisions of Chapter 33, Title 12;

 (7) tastings may not occur in conjunction with the service of food in a restaurant setting; and

 (8) only brands of alcoholic liquors actually manufactured, distilled, or fermented at and distributed to wholesalers from the licensed premises may be sold or offered for tasting.

HISTORY: 2009 Act No. 11, Section 1, eff May 6, 2009.

**SECTION 61‑6‑1150.** Tastings and retail sales; additional limitations and requirements.

 Authorization by this section of sales and tastings at licensed premises of a micro‑distillery or manufacturer is expressly intended for the promotion of education regarding production of alcoholic liquors in the State and not to create competition between producers and retailers. A holder of a valid micro‑distillery or manufacturer license issued by the State may:

 (1) sell in any quantities the alcoholic liquors produced at the licensed premises to a wholesaler licensed by the State;

 (2) transport in any quantities the alcoholic liquors produced at the licensed premises out of state for sale outside of the State;

 (3) sell at retail at the licensed premises only in quantities of 750‑milliliter bottles the alcoholic liquors produced at the licensed premises, but only if the labels for the bottles are marked “not for resale”;

 (4) sell at retail no more than three 750‑milliliter bottles of alcoholic liquors to a consumer in one business day;

 (5) not allow consumption on the licensed premises of alcoholic liquors sold by the bottle at the licensed premises;

 (6) maintain pricing of the alcoholic liquors sold at the licensed premises at a price approximating retail prices generally charged for identical alcoholic liquors in the county where the on‑site premises is located;

 (7) in addition to the sale of alcoholic liquors as authorized by this section, sell items promoting the brand or brands of alcoholic liquors produced at that location in a room on the licensed premises separate from the locations of the tastings; and

 (8) not sell or store goods, wares, or merchandise in or from the room in which alcoholic liquors are sold or tasted.

HISTORY: 2009 Act No. 11, Section 1, eff May 6, 2009.

**SECTION 61‑6‑1160.** Violation of provisions of subarticle; penalties.

 Except as otherwise provided in this title:

 (A) a person who transports, possesses, or consumes alcoholic liquors and who violates a provision of this subarticle is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days; and

 (B) a person licensed pursuant to this subarticle who violates a provision of this subarticle must:

 (1) for a first offense, be fined not less than two hundred dollars nor more than five hundred dollars or have his license suspended for not more than thirty days, or both;

 (2) for a second offense within three years of the first offense, be fined not less than two hundred dollars nor more than five hundred dollars or have his license suspended for not more than one hundred eighty days, or both; or

 (3) for a third offense within three years of the first offense, be fined not less than five hundred dollars and have his license revoked permanently; and

 (C) a person licensed pursuant to this subarticle who acts to avoid payment of the excise tax imposed on the serving of alcoholic liquors by the drink provided for in Chapter 33, Title 12 must be fined not less than one thousand dollars and have his license revoked permanently.

HISTORY: 2009 Act No. 11, Section 1, eff May 6, 2009.

Subarticle 13

Regulation of Wholesalers

**SECTION 61‑6‑1300.** Restrictions upon wholesalers.

 No wholesaler may:

 (1) sell, barter, exchange, give, transfer, or deliver for consumption alcoholic liquors to a person not having a retail dealer’s license issued under this article;

 (2) permit the drinking of alcoholic liquors on his premises;

 (3) condition the sale of alcoholic liquors to a retail dealer upon the purchase or receipt of another kind or brand of alcoholic liquors than that ordered by the retail dealer;

 (4) sell alcoholic liquors between the times of sundown and sunrise;

 (5) sell alcoholic liquors on credit; however, this item does not prohibit payment by electronic transfer of funds if (a) the transfer of funds is initiated by an irrevocable payment order on or before delivery of the alcoholic liquors and (b) the electronic transfer is initiated by the wholesaler no later than one business day after delivery;

 (6) directly or indirectly, individually or as a member of a partnership or an association, as a member or stockholder of a corporation, or as a relative to a person by blood or marriage within the third degree, have an interest in a business, store, or establishment dealing in alcoholic liquors except the store or place of business covered by his wholesaler’s license; or

 (7) redeem proof‑of‑purchase certificates for any promotional item.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑1310.** Separate store or warehouse.

 A wholesaler must, for the purpose of conducting his business under his wholesaler’s license, maintain a separate store or warehouse and no other goods, wares, or merchandise except nonalcoholic beverages may be kept or stored therein. No place of amusement may be maintained in the place or in the same building or in connection therewith.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑1320.** Monthly statements.

 A wholesaler must file with the department, on or before the first day of each month, a statement showing the stock of alcoholic liquors received by him during the preceding thirty days, and additional reports the department requires.

HISTORY: 1996 Act No. 415, Section 1.

Subarticle 15

Regulation of Retail Dealers

**SECTION 61‑6‑1500.** Restrictions upon retail dealers; unlawful practices; penalties.

 (A) A retail dealer may not:

 (1) sell, barter, exchange, give, or offer for sale, barter, or exchange, or permit the sale, barter, exchange, or gift, of alcoholic liquors without regard to the size of the container:

 (a) between the hours of 7:00 p.m. and 9:00 a.m.;

 (b) for consumption on the premises;

 (c) to a person under twenty‑one years of age;

 (d) to an intoxicated person;

 (e) to a mentally incompetent person; or

 (f) to a person the retail dealer knows is another retail dealer, except as provided in Section 61‑6‑950 or between locations owned by the same retail dealer;

 (2) permit the drinking of alcoholic liquors in his store or place of business;

 (3) sell alcoholic liquors on credit; however, this item does not prohibit payment by electronic transfer of funds if:

 (a) the transfer of funds is initiated by an irrevocable payment order on or before delivery of the alcoholic liquors; and

 (b) the electronic transfer is initiated by the retailer no later than one business day after delivery;

 (4) redeem proof‑of‑purchase certificates for any promotional item; or

 (5) purchase, barter, exchange, receive, or offer to purchase, barter, exchange, receive or permit the purchase, barter, exchange, or receipt, of alcoholic liquors without regard to the size of the container from another retail dealer, except as provided in Section 61‑6‑950 or between locations owned by the same retail dealer.

 However, during restricted hours a retail dealer is permitted to receive, stock, and inventory merchandise, provide for maintenance and repairs, and other necessary, related functions that do not involve the sale of alcoholic liquors.

 (B)(1) It is unlawful for a person licensed to sell alcoholic liquors pursuant to the provisions of this section to knowingly and willfully refill, partially refill, or reuse a bottle of lawfully purchased alcoholic liquor, or otherwise tamper with the contents of the bottle.

 (2) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction:

 (a) for a first offense, must be fined five hundred dollars or imprisoned for not more than thirty days, or both;

 (b) for a second or subsequent offense, must be fined one thousand dollars or imprisoned not more than six months, or both.

 (3) In addition to the penalties provided in subsection (B), a violation of this section may subject the licensee or permit holder to revocation or suspension of the license or permit by the department. A third or subsequent violation of subsection (A)(1)(f) within three years of the first violation must result in a mandatory suspension of the license or permit for a period of at least thirty days. A violation of subsection (A)(5) must result in a mandatory suspension of the license or permit for a period of at least thirty days.

 (4) The possession of a refilled or reused bottle or other container of alcoholic liquors is prima facie evidence of a violation of this section. A person who violates this provision must, upon conviction, have his license revoked permanently.

 (C) A retail dealer must keep a record of all sales of alcoholic liquors sold to establishments licensed for on‑premises consumption. The record must include the name of the purchaser and the date and quantity of the sale by brand and bottle size.

 (D) It is unlawful to sell alcoholic liquors except during lawful hours of operation.

HISTORY: 1996 Act No. 415, Section 1; 2003 Act No. 40, Section 2; 2005 Act No. 139, Section 13; 2014 Act No. 223 (H.3512), Section 2, eff July 1, 2014.

Effect of Amendment

2014 Act No. 223, Section 2, added subsection (A)(1)(f); added subsection (A)(5); in subsection (B)(3), added the second and third sentences; and made other nonsubstantive changes.

**SECTION 61‑6‑1505.** Retail dealer may be licensed to cash checks.

 Notwithstanding any other provision of law, a retailer dealer may be also licensed under Chapter 41 of Title 34 in order to engage in check cashing services in the retail premises.

HISTORY: 2001 Act No. 76, Section 7.

**SECTION 61‑6‑1510.** Separate store or place of business; advertising encouraging underage drinking.

 A retail dealer must maintain a separate store or place of business with not more than two means of public ingress or egress which must be on the front or the same side of the building, except that the doors may be located at the corner of two adjacent sides of the building. One additional door, not in the front, is allowed to be used solely for the receipt of commercial deliveries and as an emergency exit.

 Retail dealers are prohibited from using in an advertisement for alcoholic liquor or wine a subject matter, language, or slogans addressed to and intended to encourage persons under twenty‑one years of age to purchase or drink alcoholic liquor or wine.

HISTORY: 1996 Act No. 415, Section 1; 2003 Act No. 70, Section 10.

**SECTION 61‑6‑1530.** Signs required to be posted.

 A retail dealer must have posted in his place of business signs with the following words printed thereon:

 (1) “The possession of beer, wine, or alcoholic liquors, by a person under twenty‑one years of age is a criminal offense under the laws of this State, and it is also unlawful for a person to knowingly give false information concerning his age for the purpose of purchasing beer, wine, or liquor”. The department must prescribe by regulation the size of the lettering and the location of the sign on the seller’s premises.

 A retail seller of alcoholic liquors who fails to display this sign is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days. A person found guilty of a violation of Section 61‑4‑70 and this subsection may not be sentenced under both Section 61‑4‑70 and this subsection for the same offense.

 (2) “A person may transport alcoholic liquors to and from a place where alcoholic liquors may be lawfully possessed or consumed; but if the cap or seal on the container has been opened or broken, it is unlawful to transport alcoholic liquors in a motor vehicle, except in the luggage compartment or cargo area”. The size of the lettering and approved locations on the retail dealer’s premises must be provided for by rules and regulations of the department.

 (3) “The purchase of alcoholic liquors from this location by or on behalf of another retail dealer is unlawful and will result in the suspension of the purchaser’s retail dealer’s license”. The department must prescribe by regulation the size of the lettering and the location of the sign on the seller’s premises.

HISTORY: 1996 Act No. 415, Section 1; 2014 Act No. 223 (H.3512), Section 4, eff July 1, 2014.

Effect of Amendment

2014 Act No. 223, Section 4, added paragraph (3).

**SECTION 61‑6‑1540.** Nonalcoholic merchandise.

 (A) Except as provided in subsection (B), no other goods, wares, or merchandise may be kept or stored in or sold in or from a retail alcoholic liquor store or place of business, and no place of amusement may be maintained in or in connection with the store. However, retail dealers may sell:

 (1) drinking glassware packaged together with alcoholic liquors if the glassware and alcoholic liquors are packaged together by the wholesaler or producer in packaging provided by the producer;

 (2) nonalcoholic items, other than beer or wine, packaged together with alcoholic liquors if the nonalcoholic items and alcoholic liquors are in sealed packages and are packaged together by the alcoholic liquor producer at its place of business; and

 (3) lottery tickets under the provisions of Chapter 150 of Title 59.

 (B) Retail dealers licensed pursuant to the provisions of this article may sell all wines in the stores or places of business covered by their respective licenses, whether declared alcoholic or nonalcoholic or nonintoxicating by the laws of this State. Wines containing more than sixteen percent of alcohol by volume may be sold only in licensed alcoholic liquor stores or in establishments licensed to sell and permit consumption of alcoholic liquors by the drink. The provisions of this section do not amend, alter, or modify the taxes imposed on wines or the collection and enforcement of these taxes.

HISTORY: 1996 Act No. 415, Section 1; 2002 Act No. 353, Section 2; 2005 Act No. 139, Section 14; 2005 Act No. 161, Section 23.F.

**SECTION 61‑6‑1550.** Carriers engaged in interstate travel.

 The restrictive provisions of this article relating to retail dealers do not apply to sales of alcoholic liquors by railroad, Pullman, or airline companies to passengers on interstate trains or aircraft for consumption thereon; and to this end, these sales are permitted.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑1555.** Purchase of beer, wine, and alcoholic liquor directly from wholesaler by airline companies; use by persons other than airline passengers; penalties.

 Notwithstanding any other provision of law, an airline company may purchase beer, wine, and alcoholic liquor directly from a wholesaler licensed pursuant to the provisions of Section 61‑4‑520(3) or Section 61‑6‑100(2). A wholesaler may sell and deliver beer, wine, and alcoholic liquor to an airline company for use on the company’s airplanes. A person other than an airline passenger who uses beer, wine, or alcoholic liquor purchased pursuant to the provisions of this section for another purpose other than the sale or use by the airline company on its airplanes is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than six months, or both. Each violation of this section constitutes a separate offense.

HISTORY: 2004 Act No. 267, Section 1.

**SECTION 61‑6‑1560.** Discounts on alcoholic liquors or nonalcoholic items; discount of alcoholic liquor and nonalcoholic items at the register.

 (A) Notwithstanding any other provision of law, a retail dealer, wholesaler, or producer may offer discounts on alcoholic liquors or nonalcoholic items, listed in Section 61‑6‑1540(A), through the use of premiums, coupons, or stamps redeemable by mail.

 (B) In addition to the provisions of subsection (A), a retail dealer may offer a discount on the sale of alcoholic liquor or nonalcoholic items, listed in Section 61‑6‑1540(A), at the register through the use of premiums, coupons, or stamps, so long as all costs related to the discount, including, but not limited to, printing, redemption services, and the actual cost of the discount, are provided and borne only by the retail dealer and the discount is not prohibited by any federal law.

HISTORY: 2002 Act No. 335, Section 2; 2014 Act No. 223 (H.3512), Section 1, eff July 1, 2014.

Effect of Amendment

2014 Act No. 223, Section 1, added the subsection (A) designator; in subsection (A), added “, listed in Section 61‑6‑1540(A),”; and added subsection (B).

ARTICLE 5

Regulation of Alcoholic Liquors

Subarticle 1

Biennial Licenses and Licensees

Editor’s Note

2005 Act No. 139, Section 25, provides as follows:

“This act establishes a license to sell alcoholic liquors by the drink. All statutes and regulations applicable to minibottle licenses or permits or applications for licenses or permits apply to licenses or permits for alcoholic liquors by the drink. All minibottle licenses or permits in effect before the effective date of this act are considered to be licenses or permits to sell alcoholic liquors by the drink after the effective date of this act through the expiration of the license or permit.”

**SECTION 61‑6‑1600.** Nonprofit organizations; time when sale of alcoholic beverages prohibited.

 (A) A nonprofit organization which is licensed by the department pursuant to the provisions of this article may sell alcoholic liquors by the drink. A member or guest of a member of a nonprofit organization may consume alcoholic liquors sold by the drink upon the premises between the hours of ten o’clock in the morning and two o’clock the following morning.

 (B) An employee or agent of an establishment licensed as a nonprofit organization is prohibited from selling, making available for sale, or permitting the consumption of alcoholic liquors on the licensed premises between the hours of two o’clock in the morning and ten o’clock in the morning. A violation of this provision is a violation against the organization’s license.

HISTORY: 1996 Act No. 415, Section 1; 2003 Act No. 70, Section 11; 2005 Act No. 139, Section 15.

**SECTION 61‑6‑1610.** Food‑service establishments or places of lodging; Sunday and other time restrictions on sale of alcoholic beverages; refilling bottles.

 (A) Except on Sunday, it is lawful to sell and consume alcoholic liquors sold by the drink in a business establishment between the hours of ten o’clock in the morning and two o’clock the following morning if the establishment meets the following requirements:

 (1) the business is bona fide engaged primarily and substantially in the preparation and serving of meals or furnishing of lodging; and

 (2) the business has a license from the department authorizing the sale and consumption of alcoholic liquors by the drink, which is displayed conspicuously on the main entrance to the premises and clearly visible from the outside.

 (B) Notwithstanding another provision of this article, the licensed premises of a business establishment which is bona fide engaged primarily and substantially in the preparation and service of meals and which holds a valid license for the sale and consumption of alcoholic liquors by the drink do not extend to any portion of the business establishment or the property upon which it is located which is designed as or used for a parking area even though food may be served in the area.

 (C) An establishment licensed pursuant to the provisions of this article may use alcoholic liquors in the preparation of food without obtaining the license provided for in Section 61‑6‑700.

 (D) Any licensee, employee, or agent of an establishment licensed as a food service establishment or place of lodging is prohibited from selling, making available for sale, or permitting the consumption of alcoholic liquors on the licensed premises between the hours of two o’clock in the morning and ten o’clock in the morning. However, any licensee, employee, or agent of an establishment licensed as a food service establishment or place of lodging is prohibited from selling, making available for sale, or permitting the consumption of alcoholic liquors on Sunday unless the establishment has been issued for that Sunday a temporary permit pursuant to the provisions of Section 61‑6‑2010. A violation of this subsection is a violation against the establishment’s license.

 (E)(1) It is unlawful for a person licensed to sell alcoholic liquor by the drink pursuant to the provisions of this section to knowingly and wilfully refill, partially refill, or reuse a bottle of lawfully purchased alcoholic liquor, or otherwise tamper with the contents of the bottle.

 (2) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction:

 (a) for a first offense, must be fined five hundred dollars or imprisoned for not more than thirty days, or both;

 (b) for a second or subsequent offense, must be fined one thousand dollars or imprisoned for not more than six months, or both.

 (F) In addition to the penalties provided in subsection (E), a violation of this section may subject the licensee or permit holder to revocation or suspension of the license or permit by the department.

 (G) The possession of a refilled or reused bottle or other container of alcoholic liquors is prima facie evidence of a violation of this section. A person who violates this provision must, upon conviction, have his license revoked permanently.

 (H) An establishment licensed pursuant to the provisions of Section 61‑6‑20(2) as a business that is bona fide engaged primarily and substantially in the preparation and serving of meals is authorized to continue to operate as the licensed establishment so long as the licensed establishment maintains a Grade A retail food establishment permit from the Department of Health and Environmental Control. Upon notice by the Department of Health and Environmental Control to the licensed establishment and to the Department of Revenue that the retail food establishment permit has been reduced to a grade below Grade A, the licensed establishment has thirty days within which to request a subsequent inspection by the Department of Health and Environmental Control. If a subsequent inspection is not requested within thirty days after the reduction in a grade below Grade A, or the subsequent inspection results in a grade below Grade A, then the Department of Revenue shall suspend the license of the licensed establishment until the Department of Health and Environmental Control issues a Grade A retail food establishment permit.

 (I) For purposes of this section:

 (1) “Kitchen” means a separate and distinct area of the business establishment that is used solely for the preparation, serving, and disposal of solid foods that make up meals. The area must be adequately equipped for the cooking, serving, and storage of solid foods and must include at least twenty‑one cubic feet of refrigerated space for food and a stove.

 (2) “Meal” means an assortment of various prepared foods available to guests on the licensed premises during the normal mealtimes that 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 there are not a meal.

 (3) “Primarily” means that the serving of the meals by a business establishment is a regular source of business to the licensed establishment, that meals are served upon the demand of guests and patrons during the normal mealtimes that occur when the licensed business establishment is open to the public, and that an adequate supply of food is present on the licensed premises to meet the demand.

HISTORY: 1996 Act No. 415, Section 1; 2003 Act No. 70, Sections 12, 13; 2005 Act No. 139, Section 15; 2006 Act No. 386, Section 52; 2008 Act No. 287, Section 2.B, eff June 11, 2008; 2008 Act No. 320, Section 3, eff upon approval (became law without the Governor’s signature on June 17, 2008).

Effect of Amendment

The first 2008 amendment added subsection (I) setting forth definitions.

The second 2008 amendment added an identical subsection (I) containing definitions.

**SECTION 61‑6‑1620.** Possession or consumption of alcoholic liquors on premises open to public.

 (A) This article authorizes the possession or consumption of alcoholic liquors on premises open to the general public for which a license has been obtained pursuant to Sections 61‑6‑1600 or 61‑6‑1610.

 (B) Alcoholic liquors may be possessed or consumed in separate and private areas of an establishment whether or not the establishment includes premises which are licensed pursuant to Sections 61‑6‑1600 or 61‑6‑1610, where specific individuals have leased these areas for a function not open to the general public.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 139, Section 15.

**SECTION 61‑6‑1630.** License restriction; retail dealer on same premises as liquor by the drink licensee.

 A person licensed to sell alcoholic liquor by the drink for on‑premises consumption must not be licensed as a retail dealer on the same premises.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 139, Section 15.

**SECTION 61‑6‑1636.** Purchasing and sale of alcoholic liquor by the drink.

 (A) A person licensed by this article for sale and use for on‑premises consumption shall purchase alcoholic liquor for sale by the drink from a licensed retail dealer with a wholesaler’s basic permit issued pursuant to the Federal Alcohol Administration Act in any size bottle, except 1.75 liter size bottles.

 (B) A licensed retail dealer with a wholesaler’s basic permit issued pursuant to the Federal Alcohol Administration Act may deliver, in sealed containers, alcoholic liquor in any size bottle, except 1.75 liter size bottles, to a person licensed by this article to sell alcoholic liquors for on‑premises consumption.

HISTORY: 2005 Act No. 139, Section 1.

**SECTION 61‑6‑1637.** Substituting brands of alcoholic liquor.

 A person licensed pursuant to this article, including his agent, may not substitute another brand of alcoholic liquor in place of the brand specified by a customer unless the licensee or his agent has: (1) advised the customer that the desired brand is not available, and (2) received the customer’s approval of substitution. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than ten days, or both.

HISTORY: 2005 Act No. 139, Section 1.

**SECTION 61‑6‑1640.** Sampling of wine, cordials, and distilled spirits.

 Notwithstanding the provisions of this subarticle or any other provision of law, an establishment licensed pursuant to Article 5 of this chapter is authorized to conduct samplings of wines in excess of sixteen percent alcohol, cordials, and distilled spirits, if the sampling is conducted as follows:

 (1) the establishment must have a permanent seating capacity of fifty or more persons;

 (2) samples may not be offered from more than four products at any one time;

 (3) the sampling must be held in the bar area of a licensed establishment and all open bottles must be visible at all times. All open bottles must be removed at the conclusion of the tasting;

 (4) samples must be less than one‑half ounce for each product sampled;

 (5) a person may not be served more than one sample of each product;

 (6) sampling may not be offered for more than four hours;

 (7) at least five days before the sampling, a letter detailing the specific date and hours of the sampling must be mailed first class to the South Carolina Law Enforcement Division;

 (8) a sample may not be offered to, or allowed to be consumed by, an intoxicated person or a person under the age of twenty‑one years;

 (9) a licensed establishment may not offer more than one sampling each day; and

 (10) the sampling must be conducted by the manufacturer or wholesaler or an agent of the manufacturer or wholesaler.

HISTORY: 2003 Act No. 70, Section 1; 2005 Act No. 139, Section 15.

Subarticle 3

Applications for Biennial Licenses

Editor’s Note

2005 Act No. 139, Section 25, provides as follows:

“This act establishes a license to sell alcoholic liquors by the drink. All statutes and regulations applicable to minibottle licenses or permits or applications for licenses or permits apply to licenses or permits for alcoholic liquors by the drink. All minibottle licenses or permits in effect before the effective date of this act are considered to be licenses or permits to sell alcoholic liquors by the drink after the effective date of this act through the expiration of the license or permit.”

**SECTION 61‑6‑1800.** License required.

 No person, corporation, or organization for whose premises a license is required pursuant to subarticle 1 of this article may knowingly allow the possession or consumption of alcoholic liquors upon the premises unless a valid license issued pursuant to Section 61‑6‑1820 has been obtained and is properly displayed.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑1810.** Applications.

 (A) A person making application for a license under subarticle 1 of this article must submit his application to the department. The applicant must pay a nonrefundable filing fee of one hundred dollars which must accompany the initial application for each location. The department has exclusive authority in issuing, renewing, suspending, or revoking a license pursuant to the provisions of this article.

 (B) Applications for licenses must also be accompanied by appropriate license fees payable to the department. License fees must be deposited with the State Treasurer or are refundable if a license is not issued. The schedule of fees for the license is:

 (1) one thousand, five hundred dollars biennially for a nonprofit organization, as defined in Section 61‑6‑20(6);

 (2) one thousand, five hundred dollars biennially for a business establishment, as described in Section 61‑6‑1610.

 (C) A person who initially applies for a license after the first day of a license period must pay license fees in accordance with the schedule provided in this subsection. During the:

 (1) first quarter of the license period: the entire fee;

 (2) second quarter of the license period: three‑fourths of the prescribed fee;

 (3) third quarter of the license period: one‑half of the prescribed fee;

 (4) final quarter of the license year: one‑fourth of the prescribed fee.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑1820.** Criteria for license; notice.

 The department may issue a license under subarticle 1 of this article upon finding:

 (1) The applicant is a bona fide nonprofit organization, a homeowners association chartered as a nonprofit organization by the Secretary of State, or the applicant conducts a business bona fide engaged primarily and substantially in the preparation and serving of meals or furnishing of lodging.

 (2) The applicant, if an individual, is of good moral character or, if a corporation or association, has a reputation for peace and good order in its community, and its principals are of good moral character.

 (3) As to business establishments or locations established after June 20, 1967, Section 61‑6‑120 has been complied with.

 (4) Notice of application has appeared at least once a week for three consecutive weeks in a newspaper most likely to give notice to interested citizens of the county, municipality, or community in which the applicant proposes to engage in business. The department shall determine which newspapers meet the requirements of this section based on available circulation figures. However, if a newspaper is published in the county and historically has been the newspaper where the advertisements are published, the advertisements published in that newspaper meet the requirements of this section. The notice must:

 (a) be in the legal notices section of the newspaper or an equivalent section if the newspaper has no legal notices section;

 (b) be in large type, covering a space of one column wide and at least two inches deep; and

 (c) state the type license applied for and the exact location of the proposed business.

 An applicant for a beer or wine permit and an alcoholic liquor license may use the same advertisement for both if it is approved by the department.

 (5) Notice has been given by displaying a sign for fifteen days at the site of the proposed business. The sign must:

 (a) state the type of license sought;

 (b) state where an interested person may protest the application;

 (c) be in bold type;

 (d) cover a space at least twelve inches high and eighteen inches wide;

 (e) be posted and removed by an agent of the division.

 (6) The applicant is twenty‑one years of age or older.

 (7) The applicant is a legal resident of the United States, has been a resident of this State for at least thirty days before the date of application, and has maintained his principal place of abode in this State for at least thirty days before the date of application.

 (8) The applicant has not been convicted of a felony within ten years of the date of application.

 Upon the written request of a person who resides in the county where the license is requested to be issued, the department must not issue the permanent license until interested persons have been given an opportunity to be heard.

HISTORY: 1996 Act No. 415, Section 1; 1998 Act No. 363, Section 4; 2001 Act No. 89, Section 56; 2003 Act No. 70, Section 14; 2011 Act No. 67, Section 2, eff June 17, 2011.

Code Commissioner’s Note

In item (3), “June 20, 1967” was substituted for “November 7, 1962”. The Code Commissioner directed that the date be changed to reflect the applicable Attorney General’s opinion (see 1970 Op Atty Gen, No 3002 noted below).

Effect of Amendment

The 2011 amendment in subsection (1), inserted “, a homeowners association chartered as a nonprofit organization by the Secretary of State,”.

**SECTION 61‑6‑1825.** Protest of issuance or renewal of license; attendance at hearing; court costs and other penalties.

 (A) A person residing in the county in which a license pursuant to the provisions of subarticle 1 of this article is requested to be granted, or a person residing within five miles of the location for which a permit pursuant to the provisions of subarticle 1 of this article is requested, may protest the issuance or renewal of the license if he files a written protest providing:

 (1) the name, address, and telephone number of the person filing the protest;

 (2) the name of the applicant for the license and the address of the premises sought to be licensed, or the name and address of the license holder if the application is for renewal;

 (3) the specific reasons why the application should be denied; and

 (4) whether or not he wishes to attend a contested case hearing before the Administrative Law Court.

 (B) Upon receipt of a timely filed protest, the department must determine the protestant’s intent to attend a contested hearing before the Administrative Law Court. If the protestant intends to attend a contested hearing, the department must not issue the permanent license but must forward the file to the Administrative Law Court.

 (C) If the protestant during the investigation expresses no desire to attend a contested hearing and offer testimony, the protest is deemed invalid, and the department shall continue to process the application and shall issue the license if all other statutory requirements are met.

 (D) A person who files a protest and fails to appear at a hearing after affirming a desire to attend the hearing may be assessed a penalty to include court costs.

HISTORY: 1998 Act No. 363, Section 3; 2005 Act No. 139, Section 16.

**SECTION 61‑6‑1830.** Suspension, revocation, or nonrenewal of license.

 The department may suspend, revoke, or refuse to renew a license issued pursuant to subarticle 1 of this article upon finding that:

 (1) the applicant no longer meets the requirements of Section 61‑6‑1820; or

 (2) the applicant has violated since the issuance of the license any regulation; or

 (3) the applicant has violated since the issuance of the license any provision of the ABC Act; or

 (4) the applicant permits entertainment on the licensed premises 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 covering.

HISTORY: 1996 Act No. 415, Section 1.

Subarticle 5

Temporary Licenses

Editor’s Note

2005 Act No. 139, Section 25, provides as follows:

“This act establishes a license to sell alcoholic liquors by the drink. All statutes and regulations applicable to minibottle licenses or permits or applications for licenses or permits apply to licenses or permits for alcoholic liquors by the drink. All minibottle licenses or permits in effect before the effective date of this act are considered to be licenses or permits to sell alcoholic liquors by the drink after the effective date of this act through the expiration of the license or permit.”

**SECTION 61‑6‑2000.** Temporary permits for nonprofit organizations; criminal background checks.

 (A) In addition to the licenses authorized pursuant to the provisions of subarticle 1 of this article, the department also may issue a temporary license to a nonprofit organization, as defined in Section 61‑6‑20, which authorizes that nonprofit organization to purchase and to sell alcoholic liquors by the drink for a period not to exceed twenty‑four hours at a single social occasion. The nonprofit organization may sell tickets for the social occasion to nonmembers. Notwithstanding another provision of this article, the issuance of this license authorizes the nonprofit organization to purchase alcoholic liquors from licensed retail dealers in the same manner that a person with a biennial license issued pursuant to subarticle 1 of this article purchases its alcoholic liquors. The department shall charge a nonrefundable filing fee of thirty‑five dollars for processing each event on the application. The temporary license application must include a statement by the applicant as to the nature and date of the special function at which the alcoholic liquors are to be sold. The department in its discretion may specify the terms and conditions of the license, pursuant to existing statutes and regulations governing these applications.

 (B) The department shall require the applicant to obtain a criminal background check conducted by the State Law Enforcement Division within ninety days prior to an application. The department shall deny the application if the criminal records check is not submitted with the application and filing fee or if it was obtained more than ninety days before.

 (C) The department shall require the applicant to complete the law enforcement notification contained in an application form and submit it with the application. The law enforcement notification provision shall be prepared by the department for inclusion in the application and, at a minimum, must contain sufficient information to inform the department that either the chief of police, if the event is located within the city limits, or the county sheriff has been notified of the temporary license application and given an opportunity to object.

 (D) The department may issue up to twenty‑five temporary licenses on one application for special functions in a twelve‑month period to the same nonprofit organization. This does not prohibit the nonprofit organization from applying for additional temporary licenses within the same twelve‑month period.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 139, Section 17; 2006 Act No. 386, Section 47; 2010 Act No. 259, Section 3, eff June 11, 2010; 2011 Act No. 67, Section 5.B, eff July 1, 2011.

Editor’s Note

2010 Act No. 259, Section 5, provides as follows:

“This act takes effect upon approval by the Governor and applies to applications for special functions beginning on January 1, 2011.”

Effect of Amendment

The 2010 amendment rewrote this section.

The 2011 amendment rewrote subsections (A) through (C).

**SECTION 61‑6‑2005.** Temporary retail liquor license to sell alcoholic liquors by the drink upon purchase or acquisition of retail business.

 (A) A person who purchases or acquires by lease, inheritance, divorce decree, eviction, or otherwise a retail business which sells alcoholic liquors by the drink from a holder of a license to sell alcoholic liquors by the drink at the business, upon initiating the application process for a permanent license, may be issued a temporary license by the department at the time of the purchase or acquisition if the location for which the temporary license is sought is not considered by the department to be a public nuisance, and the applicant:

 (1) currently holds a valid license to sell alcoholic liquors by the drink; or

 (2) has had a criminal history background check conducted by the State Law Enforcement Division within the past thirty days.

 (B) A temporary license issued pursuant to subsection (A) is valid until a permanent license is approved or disapproved by the department, but in no case is it valid for more than one hundred twenty days from the date of issuance.

 (C) Notwithstanding subsection (B), the department may revoke a temporary license if the applicant fails to pursue the permanent license in a timely manner, as set forth by the department by regulation.

 (D) The department shall collect a fee of twenty‑five dollars for each temporary license sought. The funds generated by this fee must be deposited in the general fund of the State.

HISTORY: 1996 Act No. 458, Part II, Section 58B; 1998 Act No. 442, Section 5C; 2005 Act No. 139, Section 18.

**SECTION 61‑6‑2010.** Temporary permits upon referendum vote.

 (A) In addition to the provisions of Section 61‑6‑2000, the department may issue a temporary permit to allow the possession, sale, and consumption of alcoholic liquors by the drink. This permit is valid for a period not to exceed twenty‑four hours and may be issued only to bona fide nonprofit organizations and business establishments otherwise authorized to be licensed for sales. The department shall charge a nonrefundable filing fee of one hundred dollars for processing each application and a daily permit fee of fifty dollars for each day for which a permit is approved. An application must be filed for each permit requested. The department must also offer the option of an annual fifty‑two week temporary permit for a nonrefundable fee of three thousand dollars per year. However, the optional fifty‑two week permit must not extend beyond the expiration date of the biennial license issued pursuant to this chapter. If the expiration date is less than fifty‑two weeks from the date of the application for the optional fifty‑two week permit, the department must prorate the three thousand dollar fee on a monthly basis. The department in its sole discretion shall specify the terms and conditions of the permit.

 (B)(1) The filing and permit fees must be distributed by the State Treasurer to the municipality or county in which the retailer who paid the fee is located. The revenue may be used only by the municipality or county for the following purposes:

 (a) capital improvements to tourism‑related buildings including, but not limited to, civic centers, convention centers, coliseums, aquariums, stadiums, marinas, parks, and recreational facilities;

 (b) purchase or renovation of buildings which are historic properties as defined in Section 60‑12‑10(4) and (5);

 (c) festivals that have a demonstrable and significant impact on tourism;

 (d) local youth mentor programs to serve juvenile offenders under the jurisdiction of the family court;

 (e) contributions to matching funds necessary for a local government or entity to receive funding from the Legacy Trust Fund pursuant to Chapter 22, Title 51;

 (f) contributions to a redevelopment authority pursuant to Chapter 12, Title 31;

 (g) acquiring fee and less than fee interest in land while it is still available to be held in perpetuity as wildlife preserves or believed to be needed by the public in the future for active and passive recreation uses and scenic easements, to include the following types of land: ocean, harbor, and pond frontage in the form of beaches, dunes, and adjoining backlands; barrier beaches; fresh and saltwater marshes and adjoining uplands; land for bicycle paths; land protecting existing and future public water supply, well fields, highway buffering and aquifer recharge areas; land for wildlife preserves; and land for future public recreational facilities;

 (h) nourishment, renourishment (resanding), and maintenance of beaches;

 (i) dune restoration, including the planting of grass, sea oats, or other vegetation useful in preserving the dune system;

 (j) maintenance of public beach access;

 (k) capital improvements to the beaches and beach‑related facilities, such as public parking areas for beach access; dune walkovers and restroom facilities, with or without changing rooms, at public beach parks; and

 (l) construction and maintenance of drainage systems.

 (2) The revenue may not be used for operating expenses of tourism‑related buildings.

 (C)(1) A permit authorized by this section may be issued only in those counties or municipalities where a majority of the qualified electors voting in a referendum vote in favor of the issuance of the permit. The county or municipal election commission, as the case may be, shall conduct a referendum upon petition of at least ten percent but not more than seven thousand five hundred qualified electors of the county or municipality, as the case may be. The petition form must be submitted to the election commission not less than one hundred twenty days before the date of the referendum. The names on the petition must be on the petition form provided to county election officials by the State Election Commission. The names on the petition must be certified by the election commission within sixty days after receiving the petition form. The referendum must be conducted at the next general election. The election commission shall cause a notice to be published in a newspaper circulated in the county or municipality, as the case may be, at least seven days before the referendum. The state election laws shall apply to the referendum, mutatis mutandis. The election commission shall publish the results of the referendum and certify them to the South Carolina Department of Revenue. The question on the ballot shall be one of the following:

 (a) “Shall the South Carolina Department of Revenue be authorized to issue temporary permits in this (county) (municipality) for a period not to exceed twenty‑four hours to allow the possession, sale, and consumption of alcoholic liquors by the drink to bona fide nonprofit organizations and business establishments otherwise authorized to be licensed for consumption‑on‑premises sales?” or

 (b) “Shall the South Carolina Department of Revenue be authorized to issue temporary permits in this (county) (municipality) for a period not to exceed twenty‑four hours to allow the possession, sale, and consumption of alcoholic liquors by the drink to bona fide nonprofit organizations and business establishments authorized to be licensed for consumption‑on‑premises sales and to allow the sale of beer and wine at permitted off‑premises locations without regard to the days or hours of sales?” or

 (c) in case of a county or municipality where temporary permits are authorized to be issued pursuant to this section as of June 21, 1993, the question may be “Shall the Department of Revenue be authorized to issue temporary permits in this (county) (municipality) for a period not to exceed twenty‑four hours to allow the sale of beer and wine at permitted off‑premises locations without regard to the days or hours of sales?”.

 (2) A referendum for this purpose may not be held more often than once in forty‑eight months.

 (3) The expenses for a referendum for this purpose must be paid by the county or municipality conducting the referendum.

 (4) In addition to the petition method of calling the referendum provided for in item (1) of this subsection, a county or municipal governing body by ordinance may also call the referendum. Upon receipt of a copy of the ordinance filed with the county or municipal election commission at least sixty days before the date of the next general election, the commission shall conduct the referendum in the manner provided in this section at that general election. The provisions of this item are in addition to the authority of a municipal governing body to call for a referendum under the circumstances enumerated in subsection (D).

 (D)(1) The municipal governing body may order a referendum on the question of the issuance of temporary permits to allow the possession, sale, and consumption of alcoholic liquors by the drink in the following circumstances:

 (a) parts of the municipality are located in more than one county;

 (b) as a result of a favorable vote in a county referendum held pursuant to this section, permits may be issued in only the parts of the municipality located in that county; and

 (c) the proposed referendum would authorize issuance of permits in the remaining parts of the municipality.

 (2) The method of ordering a referendum provided in this subsection is in addition to the petition method provided in subsection (C). An unfavorable vote in a municipal referendum does not affect the authority to issue these permits in the part of the municipality located in a county where these permits may be issued.

 (3) Upon receipt of a copy of the ordinance filed with the municipal election commission at least sixty days before the date of the general election, the commission must conduct the referendum at the time of the general election and publish and certify its results in the same manner as provided in subsection (C). Subsection (C)(2) does not apply to this referendum.

 (E) Temporary permits for the sale of beer and wine for off‑premises consumption authorized to be issued in a county or municipality pursuant to the referendum provided for at that time may continue to be issued or reissued without the requirement of a further referendum.

 (F) Temporary permits issued by the Department of Revenue pursuant to this section may be issued in all parts of a municipality if any part of the municipality is located in a county where the issuance of these permits is allowed.

 (G) A business establishment located within a building on the grounds of an international airport in this State where the possession, sale, and consumption of alcoholic liquors by the drink is permitted on its licensed premises may apply for and receive a temporary permit authorized by this section, notwithstanding any other requirements of this section to the contrary, to allow the possession, sale, and consumption of alcoholic liquors by the drink for a period not to exceed twenty‑four hours on its licensed premises if any county within the territory of the airport district which operates the international airport or any municipality located within the territory of the district has approved, by referendum, the issuance of these temporary permits.

 (H)(1) For purposes of referendums held pursuant to this section, “general election” means a municipal general election held at a time other than the first Tuesday following the first Monday in November of even‑numbered years or a county general election held on the first Tuesday following the first Monday in November of even‑numbered years.

 (2) A municipality that does not have a municipal general election scheduled within the same calendar year as a county general election may call, by ordinance, for a referendum to be held on the same date as the county general election, provided that a copy of the ordinance has been filed with the county and municipal election commissions no later than the date required by Section 7‑13‑355. The expenses for a referendum ordered by a municipality shall be paid by the municipality. When a municipal referendum is held at the time of a county general election, the referendum may be conducted by a municipal or county election commission as provided for by an agreement between the municipality and the county.

HISTORY: 1996 Act No. 415, Section 1; 1996 Act No. 462, Section 24B; 1997 Act No. 155, Part II, Section 45A; 2000 Act No. 391, Section 1; 2002 Act No. 353, Section 1; 2003 Act No. 70, Sections 15, 16; 2005 Act No. 139, Section 19; 2006 Act No. 259, Section 1; 2006 Act No. 386, Section 56; 2008 Act No. 353, Section 2, Pt 21E.1, eff July 1, 2008; 2011 Act No. 67, Section 4, eff June 17, 2011; 2012 Act No. 266, Section 1, eff June 18, 2012.

Effect of Amendment

The 2008 amendment added subsection (F) relating to temporary permits.

The 2011 amendment added subsection (G).

The 2012 amendment added subsection (H).

**SECTION 61‑6‑2015.** Temporary permit to sell beer and wine for on‑premises consumption; terms; qualifications

 (A) A temporary permit to sell beer and wine for on‑ premises consumption for a period not to exceed twenty‑four hours without regard to the days or hours of these sales is hereby authorized. This permit may be issued by the department for the same fees provided in Section 61‑4‑500 for a retail beer and wine permit, including an application fee. This permit shall be considered a biennial temporary permit, and may be issued to those holders of a permit to sell beer and wine for off‑premises consumption during periods other than Sunday who have within the licensed premises a separate food service establishment serving prepared food for on‑ premises consumption. The permit to sell beer and wine for on‑premises consumption during the twenty‑four hour period shall apply only to this separate food‑service establishment.

 (B) The department may require such proof of qualifications for the issuance of these permits as it considers necessary, and these permits may be issued only to qualified applicants located in a county or municipality which pursuant to Section 61‑6‑2010 has successfully held a referendum allowing the possession, sale, and consumption of alcoholic liquors by the drink for a period not to exceed twenty‑four hours.

HISTORY: 2011 Act No. 67, Section 3, eff June 17, 2011.

**SECTION 61‑6‑2016.** Motorsports entertainment complex or tennis specific complex biennial license for purchase and sale for on‑premises consumption.

 (A) In addition to the other provisions of this chapter, the owner, or his designee, of a motorsports entertainment complex or tennis specific complex that is located in this State may be issued, upon application, a biennial license that authorizes the purchase and sale for on‑premises consumption of alcoholic liquors by the drink at any occasion held on the grounds of the complex under the same terms and conditions provided in Section 61‑4‑515, and the nonrefundable filing fee and license fee are the same as for other biennial licenses issued by the department for on‑premises consumption of alcoholic liquors by the drink. In the event that the owner or his designee applies for both a permit to purchase and sell for on‑premises consumption beer and wine and a license to purchase and sell for on‑premises consumption alcoholic liquors by the drink, only one fee is required, which is the same as the fee for the fifty‑two week local option permit under Section 61‑6‑2010 with the revenue therefrom used for the same purposes as provided in Section 61‑6‑2010.

 (B) The department may require such proof of qualifications for the issuance of these licenses as it considers necessary, pursuant to the provisions of Chapter 6, Title 61, and these licenses may be issued whether or not the motorsports entertainment complex or tennis specific complex is located in a county or municipality, which pursuant to Section 61‑6‑2010 has successfully held a referendum allowing the possession, sale, and consumption of beer or wine or alcoholic liquors by the drink for a period not to exceed twenty‑four hours.

 (C) The owner or designee of the motorsports entertainment complex or the tennis specific complex may designate particular areas within the complex where patrons of events who have paid an admission price to attend or guests who are attending private functions at the complex, whether or not a charge for attendance is made, may possess and consume alcoholic liquors by the drink provided at their own expense or at the expense of the sponsor of the private function.

 (D) For purposes of this section:

 (1) “Motorsports entertainment complex” has the same meaning as provided in Section 12‑21‑2425.

 (2) “Tennis specific complex” means a tennis facility, and its ancillary grounds and facilities, that satisfies all of the following:

 (a) has at least ten thousand fixed seats for tennis patrons;

 (b) hosted one Women’s Tennis Association Premier tournament in 2013 and continues to host at least one Women’s Tennis Association Premier tournament in each year, or any successor Women’s Tennis Association tournament; and

 (c) engages in tourism promotion.

HISTORY: 2014 Act No. 199 (H.3626), Section 2, eff June 2, 2014.

Subarticle 7

Provisions Relating to Sales, Delivery, and Consumption of Liquor

Editor’s Note

2005 Act No. 139, Section 25, provides as follows:

“This act establishes a license to sell alcoholic liquors by the drink. All statutes and regulations applicable to minibottle licenses or permits or applications for licenses or permits apply to licenses or permits for alcoholic liquors by the drink. All minibottle licenses or permits in effect before the effective date of this act are considered to be licenses or permits to sell alcoholic liquors by the drink after the effective date of this act through the expiration of the license or permit.”

**SECTION 61‑6‑2200.** Age of server.

 A person may not serve or deliver to a purchaser alcoholic liquors by the drink in a business where these sales are authorized unless the person is eighteen years of age or older; nothing contained in this section may be construed as allowing bartenders under the age of twenty‑one.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 139, Section 20.

**SECTION 61‑6‑2220.** Sales to intoxicated persons.

 A person or establishment licensed to sell alcoholic liquors or liquor by the drink pursuant to this article may not sell these beverages to persons in an intoxicated condition; these sales are considered violations of the provisions thereof and subject to the penalties contained herein.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 139, Section 20.

**SECTION 61‑6‑2230.** Drinking contests or games prohibited; definitions.

 (A) A person licensed to sell alcoholic liquors or liquor by the drink pursuant to this article may not knowingly conduct, operate, organize, promote, advertise, run, or participate in a “drinking contest” or “drinking game”.

 (B) For purposes of this section, “drinking contest” or “ drinking game” includes, but is not limited to, a contest, game, event, or other endeavor which encourages or promotes the consumption of alcoholic beverages by participants at extraordinary speed or in increased quantities or in more potent form. “Drinking contest” or “drinking game” does not include a contest, game, event, or endeavor in which alcoholic beverages are not used or consumed by participants as part of the contest, game, event, or endeavor but instead are used solely as a reward or prize. Selling alcoholic beverages in the regular course of business is not considered a violation of this section.

HISTORY: 1997 Act No. 98, Section 2; 2005 Act No. 139, Section 20.

Subarticle 8

Hospitality Cabinets

**SECTION 61‑6‑2300.** Definitions.

 As used in this subarticle:

 (1) “Alcoholic beverages” means alcoholic liquors, as defined in Section 61‑6‑20, and beer and wine, as defined in Section 61‑4‑10.

 (2) “Legal drinking age” means the age when a person legally may purchase or consume an alcoholic beverage.

 (3) “Hospitality cabinet” means a closed container, refrigerated in whole or in part or nonrefrigerated, where access to the interior portion where alcoholic beverages are contained is restricted by means of a locking device which requires the use of a key, magnetic card, or similar device.

 (4) “Qualified facility” means a hotel, inn, or motel licensed to sell alcoholic beverages for on‑premises consumption and which contains guest room accommodations. It includes condominiums owned or managed by an otherwise qualified facility.

 (5) “Qualified registered guest” means each person of legal drinking age who signs the guest register of a qualified facility or takes equivalent action for the purpose of registering as a guest of the qualified facility.

HISTORY: 1997 Act No. 13, Section 1.

**SECTION 61‑6‑2310.** Facilities qualified to sell by means of hospitality cabinets; notification of approval.

 After approval by ordinance by the governing body of the county or municipality in which a qualified facility licensed to sell alcoholic beverages on its premises is located, the qualified facility also may sell the beverages in sealed containers in individual portions to its qualified registered guests by means of a hospitality cabinet located in the rooms of these guests, if the conditions of this chapter are met. Within ten days of approval by the governing body, qualified facilities within its jurisdiction and the South Carolina Department of Revenue must be notified of the approval.

HISTORY: 1997 Act No. 13, Section 1.

**SECTION 61‑6‑2320.** Limitations on alcoholic beverages contained in cabinets.

 (A) The type of alcoholic beverages contained in a hospitality cabinet of a qualified facility is limited to those beverages for which the facility is licensed to sell on its premises.

 (B) The hospitality cabinet may contain no more than thirty individual portions of alcoholic beverages at one time.

 (C) The hours during which guests may have access to a hospitality cabinet are not limited to the hours that the qualified facility is licensed to sell alcoholic beverages unless this provision is specified by the governing body in the ordinance.

HISTORY: 1997 Act No. 13, Section 1.

**SECTION 61‑6‑2330.** Portion of cabinets containing nonalcoholic beverages or food; restrictions.

 A hospitality cabinet may be part of another furniture unit or device, refrigerated in whole or in part or nonrefrigerated, from which nonalcoholic beverages or food may be purchased by the guests in qualified facility guest rooms. However, if nonalcoholic beverages or food may be purchased, the portion of the hospitality cabinet or similar device in which alcoholic beverages are stored must be a hospitality cabinet as defined in Section 61‑6‑2300.

HISTORY: 1997 Act No. 13, Section 1.

**SECTION 61‑6‑2340.** Locking of cabinet containing alcoholic beverages; limits on access.

 (A) Those portions of a hospitality cabinet containing alcoholic beverages must remain locked at all times when a guest room is unrented, except for taking inventory or restocking and replenishing the hospitality cabinet.

 (B) Access to a hospitality cabinet in a particular guest room must be provided, by furnishing a key, magnetic card, or similar device, only to a qualified registered guest of legal drinking age, registered to stay in the guest room.

 (C) Before providing a key, magnetic card, or similar device required to obtain access to the hospitality cabinet in a particular guest room to the qualified registered guest, the licensee shall verify that the qualified registered guest is of legal drinking age.

 (D) A key, magnetic card, or similar device required to obtain access to the hospitality cabinet in a particular guest room may be given only to the qualified registered guest if requested by that guest and only if the guest is not visibly or obviously intoxicated.

HISTORY: 1997 Act No. 13, Section 1.

**SECTION 61‑6‑2350.** Alcoholic beverage restock and replenishment supplies.

 (A) Alcoholic beverages used to restock and replenish a facility’s hospitality cabinets must be kept locked in a separate, secure room or cabinet, except when the hospitality cabinets are restocked and replenished.

 (B) The hospitality cabinets may be restocked and replenished with alcoholic beverages only during those hours when the beverages may be sold on the premises.

HISTORY: 1997 Act No. 13, Section 1.

**SECTION 61‑6‑2360.** Regulations.

 The Department of Revenue shall promulgate regulations to implement this article.

HISTORY: 1997 Act No. 13, Section 1.

**SECTION 61‑6‑2370.** Civil penalties.

 In lieu of the punishment provided in Section 61‑2‑250 and notwithstanding any other provision of law, a person or qualified facility found guilty of violating the provisions of this subarticle is punishable by a civil fine of not less than one hundred dollars.

HISTORY: 1997 Act No. 13, Section 1.

Subarticle 9

Miscellaneous Provisions

Editor’s Note

2005 Act No. 139, Section 25, provides as follows:

“This act establishes a license to sell alcoholic liquors by the drink. All statutes and regulations applicable to minibottle licenses or permits or applications for licenses or permits apply to licenses or permits for alcoholic liquors by the drink. All minibottle licenses or permits in effect before the effective date of this act are considered to be licenses or permits to sell alcoholic liquors by the drink after the effective date of this act through the expiration of the license or permit.”

**SECTION 61‑6‑2400.** Taxation.

 Alcoholic liquors sold by the drink must be taxed pursuant to Chapter 33, Title 12.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 139, Section 21.

**SECTION 61‑6‑2410.** Restaurants with Class A licenses.

 A restaurant with a Class A license issued by the Department of Health and Environmental Control (DHEC) may serve food or beverages at its adjoining facilities located outside the restaurant if the food is prepared in a kitchen of the restaurant which is subject to inspection by DHEC and is placed on individual plates or in individual serving dishes inside the restaurant, and if uncovered containers in which the beverages are served are filled only to satisfy the order of a customer.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑2420.** Restaurants with Class B licenses.

 This article does not authorize a Class B Restaurant to sell, dispense, barter, or trade in alcoholic liquors by the drink. The law controlling Class B Restaurants in reference to the sale or dispensing of alcoholic liquors is not affected in any manner.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 139, Section 22.

**SECTION 61‑6‑2430.** Discounting of prices by wholesale distributor.

 A wholesale distributor of alcoholic liquor may discount product price based on quantity purchases if all discounts are on price only for each location, appear on the sales records, and are available to all licensed retail dealers with a wholesaler’s basic permit issued pursuant to the Federal Alcohol Administration Act or any other alcoholic liquor retail license.

HISTORY: 2005 Act No. 139, Section 2.

Subarticle 11

Penalties for Violations of Article 5

**SECTION 61‑6‑2600.** Penalties.

 Except as otherwise provided in this title, a person who transports, possesses, or consumes alcoholic liquors except in a manner permitted by this article or a person who violates any of the provisions of this article is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days. In addition, a person licensed to sell alcoholic liquors pursuant to the provisions of this article who acts to avoid the payment of the excise tax imposed on the serving of alcoholic beverages by the drink provided for in Chapter 33, Title 12 or who violates another provision of this article must:

 (1) for a first offense, be fined not less than two hundred dollars nor more than five hundred dollars or have his license suspended for not more than thirty days, or both;

 (2) for a second offense within three years of the first offense, be fined not less than two hundred dollars nor more than five hundred dollars or have his license suspended for not more than one hundred eighty days, or both;

 (3) for a third offense within three years of the first offense, be fined not less than five hundred dollars and have his license revoked permanently;

 (4) for a violation involving the avoidance of taxes, be fined not less than one thousand dollars and permanent revocation of his license.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 139, Section 23.

**SECTION 61‑6‑2610.** Further penalties.

 A person, corporation, or organization who has in its possession, custody, or within its control alcoholic liquors which are handled, stored, kept, possessed, transported, used, or distributed in violation of any provision of the ABC Act or with the design of avoiding payment of license taxes provided in Chapter 33 of Title 12, or other taxes must be required to pay a penalty of twenty dollars per container to be assessed by the department as other taxes are collected. The department may, upon good cause shown, remit any penalties provided in this section in whole or in part. In addition, these alcoholic liquors are contraband and may be seized and confiscated without a warrant by the division, its respective agents, or a peace officer, and must be disposed of in accordance with Section 61‑6‑4310.

HISTORY: 1996 Act No. 415, Section 1.

ARTICLE 7

Importation of Alcoholic Liquors

**SECTION 61‑6‑2800.** Applicability.

 The provisions of this article are applicable, notwithstanding any other provision of law.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑2810.** Exemption for South Carolina manufacturers.

 A South Carolina manufacturer licensed under the provisions of Article 3 of this chapter is exempt from the provisions of this article.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑2820.** Importation by registered producers.

 No person other than a registered producer may ship, move, or cause to be shipped or moved alcoholic liquors from a point outside the State to a point inside the State, and then only in accordance with the provisions of this article. No brand may be registered by the producer unless the person registering the brand is either the American producer or the primary American source of supply in the United States of the brand as herein defined; and it is unlawful for a wholesaler in this State to order, purchase, or receive any alcoholic liquors from any producer who is not the primary American source of supply for the brand ordered, purchased, or received. The term “primary American source of supply” means the manufacturer, distiller, vintner, winery, or owner of vinous or spirituous beverages at the time it becomes a marketable product, or bottler, or the exclusive agent of any such person, who, if the product cannot be secured directly from the manufacturer by an American distributor, is the source closest to the manufacturer in the channel of commerce from whom the product can be secured by an American distributor, or who, if the product can be secured directly from the manufacturer by an American distributor, is the manufacturer.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑2830.** Registration of brand names.

 No alcoholic liquors may be shipped or moved into this State unless each brand of alcoholic liquors is registered with the department in accordance with the provisions of this article and regulations of the department promulgated thereunder.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑2840.** Applications for certificates of registration.

 (A) A producer must apply to the department on forms the department prescribes for a certificate of registration. This certificate must be approved and issued before the shipment of alcoholic liquors by the producer to a point within the State.

 (B) A producer, at the time application is made for a certificate of registration, must remit a fee of two hundred dollars to the department. When a certificate is applied for on or after March first, the fee is one hundred fifty dollars.

 (C) A certificate of registration is valid from the date of issue until the second August thirty‑first after the issuance of the license.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑2850.** Certificates of registration of brand names.

 (A) A registered producer, before the shipment of alcoholic liquors to a point within the State, must obtain from the department a certificate of registration for each brand of alcoholic liquors intended to be shipped to a point within this State. The department must provide appropriate forms for application for certificate of registration of brands of alcoholic liquors.

 (B) An application for a certificate of registration of brands of alcoholic liquors must be accompanied by a fee of twenty dollars payable to the department for each brand except the first five brands of a registered producer.

 (C) A certificate of registration of brands of alcoholic liquors is valid from the date of issue to the second August thirty‑first after the issuance of the license.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑2860.** Affirmation of corporate policy.

 A registered producer of alcoholic liquors must, at the time of application for registration in this State, file with the department an affirmation of corporate policy with regard to sales of all brands owned, controlled, sold, offered for sale, franchised, or distributed by the producer in this State. The affirmation must certify that the producer shall not wilfully sell or offer for sale any alcoholic liquors of a particular brand and proof in any other state at a price lower than the price these liquors are sold or offered for sale to licensed South Carolina wholesalers.

 “Price”, as used in this section, means platform price at the distillery and does not include price differentials based on transportation costs, containers, or other costs not directly related to the quality and proof of the product concerned. Quantity discount prices for liquors sold to monopoly states or elsewhere must not be considered to be violations of the producer’s affirmation if these discount prices are also offered to South Carolina wholesalers for purchases in the same quantities.

 A registered producer who fails to file this affirmation or wilfully violates the pledges contained in the affirmation must have its registration and privileges to import and sell alcoholic liquors in the State revoked, canceled, or suspended at the discretion of the department for a period as the department considers necessary and proper.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑2870.** Biennial certificate of registration.

 No person is qualified as a producer representative unless he applies to the department for a biennial certificate of registration and the certificate has been approved and issued. The department must provide appropriate forms for application for a certificate of registration as a producer representative.

 Upon submission of an application for a certificate of registration, a fee of fifty dollars must be paid to the department.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑2880.** Interest in wholesale or retail liquor business.

 No person having a direct or indirect interest in a wholesale or retail liquor business in this State may qualify as a producer representative.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑2890.** Warehouses.

 (A) A registered producer may not store alcoholic liquors in a warehouse of the registered producer unless licensed by the department. Application for license to operate a warehouse must be filed on forms prescribed by the department.

 (B) When an application for a warehouse license is submitted, a fee of four hundred dollars must be paid to the department. Where application is made for a warehouse license on or after March 1, the fee is one hundred fifty dollars. A warehouse license is valid from the date of issue until the second August 31 after the issuance of the license.

HISTORY: 1996 Act No. 415, Section 1; 1998 Act No. 442, Section 5E.

**SECTION 61‑6‑2900.** Shipment or transfer of imported liquors.

 Alcoholic liquors must be shipped or moved from a point outside this State to a point inside the State only by railroad companies, steamship companies, express companies, or truck companies authorized to do business in the State as common carriers by the Department of Public Safety, by wholesalers licensed by the department, or by registered producers in their own trucks. Alcoholic liquors must be shipped or moved only to the warehouse of the food manufacturer licensed pursuant to Section 61‑6‑710, or the registered producer in care of the producer representative who is registered to handle the property of the registered producer originating the shipment. The shipment of alcoholic liquors must be either stored in the warehouse of the food manufacturer licensed pursuant to Section 61‑1‑710 or in a licensed warehouse of the registered producer or, after delivery to the producer representative is complete, may then be shipped to a licensed wholesaler by common carriers described in this section, by wholesalers licensed by the department or by registered producers in their own trucks. Shipments of alcoholic liquors from a licensed producer’s warehouse to a licensed South Carolina wholesaler may be made in a vehicle owned or operated by the wholesaler. If alcoholic liquors are stored in the warehouse of a registered producer, or after delivery to the producer representative is complete, they may be shipped to a licensed wholesaler or to a point outside this State. Before any shipment or transfer, the food manufacturer or producer representative, as appropriate, must apply to the department, on forms prescribed by the department, for permission to ship or transfer the alcoholic liquors, and the food manufacturer or producer representative must have received a certificate of approval of the shipment or transfer.

HISTORY: 1996 Act No. 415, Section 1; 2003 Act No. 40, Section 1.D.

**SECTION 61‑6‑2910.** Invoices covering shipments into State.

 Before shipment into this State, the registered producer must mail to the department by first‑class mail a correct and complete invoice listing in detail the items in the shipment by quantity, type, brand, size, price; the point of origin; and the point of destination. Before or at the time of shipment, a copy of the bill of lading must be forwarded to the department by first‑class mail.

 Immediately upon acceptance of delivery of the shipment by the producer representative, the producer representative must furnish the department with a copy of the invoice covering the shipment with endorsement thereon showing the date, time, and place delivery was accepted.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑2920.** Invoices covering shipments out of State or to wholesaler.

 Before shipment to a wholesaler in this State or to any point outside the State, the producer representative must mail to the department a correct and complete copy of the invoice covering the shipment, listing the name and address of the consignee and, in detail, the items in the shipment by quantity, type, brand, size, and price. On all shipments to a point outside this State, the producer representative must at the time of shipment mail to the department a copy of the bill of lading.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑2930.** Contraband liquors.

 Alcoholic liquors shipped or moved into this State in violation of any provision of this article are contraband and may be seized and sold as provided by Section 61‑6‑4310.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑2940.** Issuance of certificates or licenses.

 The department, in its discretion, upon due consideration of the information contained in applications for certificates and licenses provided for in this article, must issue or reject the certificate or license applied for.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑2950.** Suspension or revocation of certificates or licenses.

 Certificates of registration or licenses provided by this article may be suspended or revoked by the department upon a showing of a violation of law or of any regulation.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑2960.** Audit or examination of records.

 The applicant for a certificate or license required by this article, as a condition precedent to the issue of the certificate or license, must certify that the department and the division have the right within statutory limitations to audit and examine the books, records, papers, and memoranda of the applicant with respect to the administration and enforcement of laws administered by the department and the division.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑2965.** Relationship with other laws.

 Licenses issued under this article are subject to the requirements and restrictions of Sections 61‑6‑110, 61‑6‑120, 61‑6‑180, 61‑6‑910, and 61‑6‑920.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑2970.** Monies received.

 All monies received by the department under the provisions of this article must be deposited with the State Treasurer to the credit of the general fund of the State.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑2980.** Proof‑of‑purchase promotions.

 A producer may redeem by mail proof‑of‑purchase certificates for nonalcoholic promotional items.

HISTORY: 1996 Act No. 415, Section 1.

ARTICLE 13

Offenses, Penalties, and Enforcement

**SECTION 61‑6‑4000.** Relationship with other laws.

 This article, except Section 61‑6‑4720, is complementary to and not in conflict with the laws providing for the lawful sale of beer, wines, and other vinous, fermented, or malt liquors.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4010.** Unlawful manufacture, possession, or sales.

 (A) It is unlawful for a person to:

 (1) manufacture, store, keep, receive, have in possession, transport, ship, buy, sell, barter, exchange, or deliver alcoholic liquors, except liquors acquired in a lawful manner and except in accordance with the provisions of this title; or

 (2) accept, receive, or have in possession alcoholic liquors for unlawful use pursuant to the provisions of this title.

 (B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

 (1) for a first offense, by a fine of not less than six hundred dollars or imprisonment for six months;

 (2) for a second offense, by a fine of one thousand five hundred dollars or imprisonment for one year; and

 (3) for a third or subsequent offense, by a fine of three thousand dollars or imprisonment for two years.

HISTORY: 1996 Act No. 415, Section 1; 2003 Act No. 70, Section 17.

**SECTION 61‑6‑4020.** Transportation in motor vehicle.

 (A) A person who is twenty‑one years of age or older may transport lawfully acquired alcoholic liquors to and from a place where alcoholic liquors may be lawfully possessed or consumed. If the cap or seal on the container has been opened or broken, it is unlawful to transport the liquors in a motor vehicle, except in a trunk, luggage compartment, or cargo area that is separate and distinct from the driver’s and passengers’ compartments. For purposes of this exception, the luggage compartment or cargo area is not required to be a closed trunk that is accessible only from the exterior of the motor vehicle. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days. For purposes of this section, alcoholic liquors means all distilled spirits regardless of the percentage of alcohol by volume that they contain.

 (B) Sections 61‑6‑4290 and 61‑6‑4300 do not apply to violations of this section, including violations prior to the effective date of this section.

HISTORY: 1996 Act No. 415, Section 1; 2000 Act No. 390, Section 32; 2011 Act No. 51, Section 1, eff June 14, 2011.

Effect of Amendment

The 2011 amendment designated the existing text as subsection (A), and therein, in the first sentence, substituted “; but if” for “. If” and “a trunk, luggage compartment, or cargo area that is separate and distinct from the driver’s and passengers’ compartments” for “the luggage compartment or cargo area”, and inserted the third sentence; and added subsection (B).

**SECTION 61‑6‑4025.** Possession of unlawfully acquired or manufactured alcoholic liquors in vehicle, vessel, or aircraft.

 It is unlawful for a person to keep, store, have in possession, carry, ship, or transport in a vehicle, vessel, aircraft or other chattel, any unlawfully acquired or manufactured alcoholic liquors.

 A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

 (a) for a first offense, by a fine of not less than six hundred dollars or imprisonment for six months;

 (b) for a second offense, by a fine of one thousand five hundred dollars or imprisonment for one year; and

 (c) for a third or subsequent offense, by a fine of three thousand dollars or imprisonment for two years.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4030.** Transportation of alcoholic liquors in taxi or other vehicle for hire.

 It is unlawful for a person to transport alcoholic liquors in a motor vehicle used as a taxi or used in the transportation of passengers for hire; however, this prohibition does not apply to lawful alcoholic liquors belonging to a passenger being transported when the alcoholic liquors are in the baggage of the passenger or upon his or her person. If alcoholic liquors are found in the vehicle, the vehicle must be seized and forfeited as provided for in Sections 61‑6‑4350 to 61‑6‑4460, and the alcoholic liquors must be seized as contraband and sold as provided in Section 61‑6‑4310.

 A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

 (a) for a first offense, by a fine of not less than six hundred dollars or imprisonment for six months;

 (b) for a second offense, by a fine of one thousand five hundred dollars or imprisonment for one year; and

 (c) for a third or subsequent offense, by a fine of three thousand dollars or imprisonment for two years.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4040.** Rendering aid in unlawful transportation.

 A person who acts as an advance or rear guard or pilot to a person engaged in the transportation of alcoholic liquors in violation of any law of this State is guilty of the offense of knowingly transporting alcoholic liquors for unlawful purposes and, upon conviction, must be punished for this misdemeanor as follows:

 (a) for a first offense, by a fine of not less than six hundred dollars or imprisonment for six months;

 (b) for a second offense, by a fine of one thousand five hundred dollars or imprisonment for one year; and

 (c) for a third or subsequent offense, by a fine of three thousand dollars or imprisonment for two years.

 The buggy, wagon, automobile, aircraft, railroad car, bicycle, motorcycle, or other vehicle or boat, launch, or other vessel used by the person in rendering the aid may be confiscated in the same method and manner as provided by this article for the confiscation of a vehicle actually used in the carrying of these alcoholic liquors.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4050.** Purchase from unlicensed retail dealer.

 It is unlawful for a person to purchase or otherwise procure alcoholic liquors other than those purchased from licensed retail dealers in the State or those purchased pursuant to a special food manufacturer’s license in Section 61‑6‑710. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

 (a) for a first offense, by a fine of one hundred dollars or imprisonment for thirty days;

 (b) for a second offense, by a fine of two hundred dollars or imprisonment for sixty days; and

 (c) for a third or subsequent offense, by a fine of three hundred dollars or imprisonment for ninety days.

HISTORY: 1996 Act No. 415, Section 1; 2003 Act No. 40, Section 1.E.

**SECTION 61‑6‑4060.** Storage in place of business.

 (A) It is unlawful for a person to store or have in possession alcoholic liquors in his place of business other than a licensed liquor store. A place of business includes:

 (1) A place where goods, wares, or merchandise are sold, offered for sale, or distributed, and also places of amusement;

 (2) Residences and transportation vehicles when sale of merchandise is made therefrom; and

 (3) Outbuildings, warehouses, and garages when adjacent to or used in connection with a place of business where goods, wares, or merchandise are sold, offered for sale, or distributed.

 (B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

 (1) For a first offense, by a fine of two hundred dollars or imprisonment for sixty days;

 (2) For a second offense, by a fine of one thousand dollars or imprisonment for one year; and

 (3) For a third or subsequent offense, by a fine of two thousand dollars or imprisonment for two years.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4070.** Transfer to person under the age of twenty‑one years.

 (A) It is unlawful for a person to transfer or give to a person under the age of twenty‑one years for the purpose of consumption of alcoholic liquors in the State unless the person under the age of twenty‑one is recruited and authorized by a law enforcement agency to test a person’s compliance with laws relating to the unlawful transfer or sale of alcoholic liquors to a minor. A person who violates this section is guilty of a misdemeanor and, upon conviction:

 (1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days, or both; and

 (2) for a second or subsequent offense, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days, or both.

 (B) A person found guilty of a violation of Section 61‑4‑90 and this section may not be sentenced under both sections for the same offense.

 (C) The provisions of this section do not apply to a:

 (1) spouse over the age of twenty‑one giving alcoholic liquors to his spouse under the age of twenty‑one in their home;

 (2) parent or guardian over the age of twenty‑one giving alcoholic liquors to his children or wards under the age of twenty‑one in their home; or

 (3) person giving alcoholic liquors to another person under the age of twenty‑one in conjunction with a religious ceremony or purpose if the alcoholic liquors were lawfully purchased.

 (D) A person eighteen years of age and over lawfully employed to serve or remove beer, wine, or alcoholic beverages in establishments licensed to sell these 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 subsection do not affect the requirement that a bartender must be at least twenty‑one years of age.

 (E) This section does not apply to an employee lawfully engaged in the sale or delivery of these beverages in an unopened container.

 (F) The provisions of this section do not apply to a student who:

 (1) is eighteen years of age or older;

 (2) is enrolled in an accredited college or university and a student in a culinary course that has been approved through review by the State Commission on Higher Education;

 (3) is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or other similar malt or fermented beverage as part of the required curriculum; and

 (4) tastes a beverage pursuant to item (3) only for instructional purposes during classes that are part of the curriculum of the accredited college or university.

 The beverage must remain at all times in the possession and control of an authorized instructor of the college or university who must be twenty‑one years of age or older. Nothing in this subsection may be construed to allow a student under the age of twenty‑one to receive any beer, ale, porter, wine, or other similar malt or fermented beverage unless the beverage is delivered as part of the student’s required curriculum and the beverage is used only for instructional purposes during classes conducted pursuant to the curriculum.

HISTORY: 1996 Act No. 415, Section 1; 1999 Act No. 1, Section 4; 2007 Act No. 103, Section 14.

**SECTION 61‑6‑4075.** Purchase of alcoholic beverage for minor; penalty.

 It is unlawful for a person who purchases alcoholic liquors while on licensed premises to give the alcoholic liquors to a person to whom it cannot lawfully be sold on the premises. A person who violates the provisions of this section, upon conviction:

 (1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days, or both; and

 (2) for a second or subsequent offense, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days, or both.

HISTORY: 2007 Act No. 103, Section 4.

**SECTION 61‑6‑4080.** Sale to person under the age of twenty‑one years; penalty; completion of merchant education program.

 (A) A person engaged in the sale of alcoholic liquors who knowingly sells the alcoholic liquors to a person under the age of twenty‑one is guilty of a misdemeanor and, upon conviction:

 (1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days, or both; and

 (2) for a second or subsequent offense, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days, or both.

 (B) Failure of a person to require identification to verify a person’s age is prima facie evidence of a violation of this section.

 (C) A person who violates the provisions of this section also is required to successfully complete a DAODAS approved merchant alcohol enforcement education program. The program must be a minimum of two hours and the cost to the person may not exceed fifty dollars.

HISTORY: 1996 Act No. 415, Section 1; 2007 Act No. 103, Section 15.

**SECTION 61‑6‑4085.** Charges against seller and minor purchaser; compliance tester exception.

 (A) If a person is charged with a violation of the unlawful sale of alcoholic liquors to minors pursuant to Section 61‑6‑4080, the minor also must be charged with a violation of the unlawful purchase or possession of alcoholic liquors pursuant to Section 63‑19‑2450. In addition, if the minor provided false information as to his age pursuant to Section 63‑19‑2450(A) or if an adult violated the provisions of Section 61‑6‑4075 regarding purchasing alcoholic liquors for a person who cannot lawfully buy them, these persons also must be charged with their violations.

 (B) A person may not be charged with a violation of Section 61‑6‑4080 if the provisions of subsection (A) are not met.

 (C) Nothing in this section requires that charges made pursuant to this section be prosecuted to conclusion; but rather this determination must be made in the manner provided by law.

 (D) Notwithstanding the provisions of subsections (A) and (B), a person under the age of twenty‑one may be recruited and authorized by a law enforcement agency to test an establishment’s compliance with laws relating to the unlawful transfer or sale of alcoholic liquors to a minor. The testing must be under the direct supervision of a law enforcement agency, and the agency must have the person’s parental consent. If the requirements of this subsection are met, a person may be charged with a violation of Section 61‑6‑4080 without the requirement that the minor also be charged.

HISTORY: 2007 Act No. 103, Section 5.

**SECTION 61‑6‑4090.** Effect of conviction or plea.

 If a permittee or licensee, or servant, agent, or employee of the permittee or licensee pleads guilty or nolo contendere to, or is convicted of a criminal offense which occurred on the licensed premises, the conviction or plea constitutes proof that the offense occurred and the record thereof is admissible in a contested case hearing before the Administrative Law Court.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4100.** Distilleries.

 It is unlawful for a person in this State to manufacture, sell, give, or have in his possession a distillery, commonly called a still, or any integral part of a distillery, or an apparatus, appliance, device, or substitute therefor to be used for the purpose of manufacturing alcoholic liquors, in violation of the laws of this State.

 The unexplained possession of any part of a still, apparatus or appliance, or any device or substitute therefor, commonly or generally used for or that is suitable to be used in the manufacture of prohibited alcoholic liquors is prima facie evidence of the violation of this section.

 A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

 (a) for a first offense, by a fine of not less than six hundred dollars or imprisonment for six months;

 (b) for a second offense, by a fine of one thousand five hundred dollars or imprisonment for one year; and

 (c) for a third or subsequent offense, by a fine of three thousand dollars or imprisonment for two years.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4110.** Knowing permission to locate distillery on premises.

 It is unlawful for a person to knowingly permit or allow another person to have or possess or locate on his premises an apparatus for the distilling or manufacture of alcoholic liquors in violation of the laws of this State.

 A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

 (a) for a first offense, by a fine of not less than six hundred dollars or imprisonment for six months;

 (b) for a second offense, by a fine of one thousand five hundred dollars or imprisonment for one year; and

 (c) for a third or subsequent offense, by a fine of three thousand dollars or imprisonment for two years.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4120.** Materials used in the manufacture of alcoholic liquors.

 It is unlawful to make, manufacture, transport, possess, or knowingly permit upon one’s premises mash, wort, wash, buck, or other similar material or compound suitable for or commonly used in the manufacture of alcoholic liquors with the intent that the material or compound be used in the manufacture of alcoholic liquors in violation of the laws of this State; the making, manufacture, transportation, possession, or knowingly permitting upon one’s premises such material or compound is considered to be a part of the process of the manufacture of alcoholic liquors; and a person found in possession of the material or compound or found at a place where the material or compound is stored, kept, made, manufactured, or found is prima facie guilty of a violation of this section.

 A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

 (a) for a first offense, by a fine of not less than six hundred dollars or imprisonment for six months;

 (b) for a second offense, by a fine of one thousand five hundred dollars or imprisonment for one year; and

 (c) for a third or subsequent offense, by a fine of three thousand dollars or imprisonment for two years.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4130.** Presence at distillery prima facie evidence of guilt.

 A person found at a distillery or other place where alcoholic liquors are being manufactured in violation of the laws of this State is considered prima facie guilty of manufacturing alcoholic liquors or aiding and abetting in their manufacture and, upon conviction, must be punished as if the person personally manufactured the alcoholic liquors.

 A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

 (a) for a first offense, by a fine of not less than six hundred dollars or imprisonment for six months;

 (b) for a second offense, by a fine of one thousand five hundred dollars or imprisonment for one year; and

 (c) for a third or subsequent offense, by a fine of three thousand dollars or imprisonment for two years.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4140.** Employment of persons under the age of twenty‑one years.

 It is unlawful for a 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 a person knowingly to employ another person under the age of twenty‑one years in one of these businesses or business establishments. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

 (a) for a first offense, by a fine of one hundred dollars or imprisonment for thirty days;

 (b) for a second offense, by a fine of two hundred dollars or imprisonment for sixty days; and

 (c) for a third or subsequent offense, by a fine of three hundred dollars or imprisonment for ninety days.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4150.** Sale from vehicle, vessel, or aircraft.

 Except as authorized by law, it is unlawful for a person to sell alcoholic liquors from any vehicle, vessel, or aircraft.

 A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

 (a) for a first offense, by a fine of not less than six hundred dollars or imprisonment for six months;

 (b) for a second offense, by a fine of one thousand five hundred dollars or imprisonment for one year; and

 (c) for a third or subsequent offense, by a fine of three thousand dollars or imprisonment for two years.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4155.** Unlawful use of alcohol without liquid device; penalties; exceptions.

 (A) As used in this section, “alcohol without liquid device” means a device, machine, apparatus, or appliance that is designed or marketed for the purpose of mixing alcohol with pure or diluted oxygen, or another gas, to produce an alcoholic vapor that an individual can inhale or snort. An alcohol without liquid device does not include an inhaler, nebulizer, atomizer, or other device that is designed and intended by the manufacturer to dispense a prescribed or over‑the‑counter medication.

 (B) It is unlawful for a person to use, offer for use, purchase, offer to purchase, sell, offer to sell, or possess an alcohol without liquid device.

 A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

 (1) for a first offense, by a fine of three hundred dollars;

 (2) for a second offense, by a fine of seven hundred fifty dollars or imprisonment for not more than six months, or both;

 (3) for a third or subsequent offense, by a fine of three thousand dollars or imprisonment for not more than two years, or both.

 (C) Except as provided in subsection (D) of this section, an alcohol without liquid device must be seized by a law enforcement officer and be taken before any magistrate of the county in which the alcohol without liquid device is seized, the magistrate shall immediately examine it, and if satisfied that it is an alcohol without liquid device, direct that it be destroyed immediately after conviction of the violator.

 (D) This section shall not apply to a health care provider that operates primarily for the purpose of conducting scientific research, a state institution conducting bona fide research, a private college or university conducting bona fide research, or to a pharmaceutical company or biotechnology company conducting bona fide research.

HISTORY: 2008 Act No. 320, Section 1, eff upon approval (became law without the Governor’s signature on June 17, 2008).

**SECTION 61‑6‑4157.** Powdered or crystalline Alcohol; penalties; exceptions.

 (A) As used in this section, “powdered or crystalline alcohol” is alcohol prepared or sold in a powdered or crystalline form that contains any amount of alcohol when hydrolyzed for either direct use or reconstitution for human consumption.

 (B)(1) It is unlawful for a person to use, offer for use, purchase, offer to purchase, sell, offer to sell, or possess powdered or crystalline alcohol.

 (2) It is unlawful for a holder of a license pursuant to the provisions of this chapter for on‑premises or off‑premises consumption of alcoholic liquors to use powdered or crystalline alcohol as an alcoholic beverage.

 (3) Any person or license holder that violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

 (a) for a first offense, by a fine of not more than three hundred dollars or imprisonment for not more than thirty days, or both;

 (b) for a second offense, by a fine of not more than seven hundred fifty dollars or imprisonment for not more than six months, or both;

 (c) for a third or subsequent offense, by a fine of not more than three thousand dollars or imprisonment for not more than two years, or both.

 (C) This section does not apply to the use of powdered or crystalline alcohol for commercial uses specifically approved by state law, or for bona fide research purposes by a:

 (1) health care provider that operates primarily for the purpose of conducting scientific research;

 (2) state institution;

 (3) private college or university; or

 (4) pharmaceutical or biotechnology company.

HISTORY: 2014 Act No. 253 (H.4399), Section 2.A, eff June 6, 2014; 2015 Act No. 73 (S.179), Section 2, eff June 5, 2015.

Editor’s Note

2014 Act No. 253, Section 2.B, provides as follows:

“The provisions of this SECTION are repealed effective one year following the effective date of this act [June 6, 2014].

Effect of Amendment

2015 Act No. 73, Section 2, rewrote (A), substituting the definition of “powdered or crystalline alcohol” for “powdered alcohol”; in (B)(1), (B)(2), and (C), added “or crystalline”; and in (C), inserted “specifically approved by state law, or for”.

**SECTION 61‑6‑4160.** Sunday sales; Christmas Day sales; penalties.

 It is unlawful to sell alcoholic liquors on Sunday except as authorized by law, on Christmas Day, or during periods proclaimed by the Governor in the interest of law and order or public morals and decorum. Full authority to proclaim these periods is conferred upon the Governor in addition to all his other powers. A person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

 (a) for a first offense, by a fine of two hundred dollars or imprisonment for sixty days;

 (b) for a second offense, by a fine of one thousand dollars or imprisonment for one year; and

 (c) for a third or subsequent offense, by a fine of two thousand dollars or imprisonment for two years.

HISTORY: 1996 Act No. 415, Section 1; 2014 Act No. 223 (H.3512), Section 6.A, eff June 2, 2014.

Effect of Amendment

2014 Act No. 223, Section 6.A, in the first paragraph, substituted “on Christmas Day” for “on statewide election days” in the first sentence, and inserted “a provision of” before “this section” in the last sentence.

**SECTION 61‑6‑4170.** Billboards encouraging underage drinking; penalty.

 (A) It is unlawful for a person to advertise alcoholic liquors by means of billboards along public highways and streets by using any subject matter, language, or slogan addressed to and intended to encourage persons under twenty‑one years of age to purchase or drink alcoholic liquors.

 (B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

 (1) for a first offense, by a fine of two hundred dollars or imprisonment for sixty days;

 (2) for a second offense, by a fine of one thousand dollars or imprisonment for one year; and

 (3) for a third or subsequent offense, by a fine of two thousand dollars or imprisonment for two years.

HISTORY: 1996 Act No. 415, Section 1; 2003 Act No. 70, Section 18.

**SECTION 61‑6‑4180.** Possession of firearm or weapon.

 If a person unlawfully manufactures, transports, or sells alcoholic liquors or aids or assists in any manner in one or more of these acts and at the time of the unlawful manufacturing, transporting, selling, aiding, or assisting has on or about his person or has on or in a vehicle which he uses to aid him in any such purpose or in his actual or constructive possession a firearm or weapon of like kind, he is guilty of a misdemeanor and, upon conviction, must be imprisoned not less than one year nor more than three years, or be fined not less than five hundred dollars nor more than fifteen hundred dollars.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4190.** Refusal or frustration of inspection.

 A person who, upon demand of an officer or agent of the division:

 (1) refuses to allow full inspection of the premises or any part of the premises which is licensed to sell alcoholic liquors; or

 (2) refuses to allow full inspection of the stocks and invoices of the licensee; or

 (3) prevents or in any way hinders an inspection, is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for not more than sixty days, or both.

 A person found guilty of a violation of Section 61‑4‑230 and this section may not be sentenced under both sections for the same offense.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4200.** Dispossession or attempted dispossession of alcoholic liquors.

 A person who dispossesses, rescues, or attempts to dispossess or rescue from a constable or other officer alcoholic liquors taken or detained by the officer charged with the enforcement of the ABC Act must, upon conviction, be imprisoned for not less than three months nor more than one year or fined not less than five hundred dollars nor more than fifteen hundred dollars, or both.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4210.** Penalties in absence of express provision.

 A person who violates any provision of the ABC Act, except where a different punishment is expressly provided, must, upon conviction, be punished by a fine or imprisonment in the discretion of the court of general sessions.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4220.** Effect of conviction, plea, or bond forfeiture as prior offense.

 A conviction, plea of guilty, plea of nolo contendere, or forfeiture of bond for a violation on or after March 28, 1956, of any state or federal law relating to alcoholic liquors constitutes a prior offense for the purpose of a prosecution, or for the purpose of imposition of sentence for a subsequent violation of this article, except Section 61‑6‑4720.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4230.** Sentencing.

 The trial judge in his discretion may impose sentences under the provisions of this article, except Section 61‑6‑4720, or any portion of this article, of a fine or imprisonment of not less than one‑ half the fine or imprisonment prescribed for conviction under these provisions.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4240.** Reports of convictions, pleas, or bond forfeitures.

 Clerks of court, magistrates, city recorders, and other public officers in this State having charge or responsibility with respect to the keeping of records of convictions, the entry of pleas of guilty or nolo contendere, or the forfeitures of bond posted for violations of this article, except Section 61‑6‑4720, must report to the department each conviction, plea of guilty, nolo contendere, or bond forfeiture within ten days after the conviction, entry of a plea of guilty or nolo contendere, or forfeiture of bond, or after the receipt of this report, as the case may be. These reports must be made upon forms provided by the department, arranged in duplicate; and it is the duty of the department to acknowledge the filing of each report by signing the duplicate of the report and returning it to the officer making the report. The officer making the report must keep it as evidence of his compliance with the requirements that he made the report.

 A person who violates this section is subject to a penalty of twenty‑five dollars for each offense, to be collected by the Attorney General of this State, or the solicitors of the State under the direction of the Attorney General, and paid into the general fund of the State.

 The reports or certified copies of these reports must be received as evidence under the provisions of this article, except Section 61‑6‑4720.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4250.** Certificates of convictions, pleas, or bond forfeiture.

 The clerk of court of each county in the State must, at the conclusion of each term of the court of general sessions in the county, forward to the department a certificate on forms prescribed and furnished by the department showing the name of each person who is convicted, pleads guilty, enters a plea of nolo contendere, or forfeits bond for the violation of any provision of this article except Section 61‑6‑4720. The department must maintain a file of these violations. A copy of the department’s records pertaining to the convictions, certified as correct by the director or his designee, is admissible in all courts as prima facie evidence of the facts recited in the records. The department must, upon receipt of a record of conviction, plea of guilty, plea of nolo contendere, or forfeiture of bond for the violation of the provisions of this article prohibiting the transportation of alcoholic liquors, forward to the Department of Public Safety a certified copy of the record.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4260.** Effect of conviction, plea, or bond forfeiture upon license.

 A conviction, a plea of guilty, a forfeiture of bond, or a plea of nolo contendere, under the provisions of this article except Section 61‑6‑4720, automatically revokes a beer, wine, or liquor license which this State has issued to the party convicted, pleading guilty, forfeiting bond, or pleading nolo contendere; however, as an alternative to the revocation of a beer, wine, or liquor license, the department may in its discretion impose a monetary penalty in lieu of the revocation.

 For a first offense, the license must either be revoked for one year, or the licensee must pay a penalty of two hundred fifty dollars to the department. For a subsequent offense, the offender’s license or licenses must be revoked for a period of two years, or the licensee must pay a penalty of five hundred dollars to the department. If the department exercises its right to impose the monetary penalty provided in this section in lieu of a revocation of a license and if the penalty is not paid within ten days of demand by the department, the license or licenses must be automatically revoked.

 A person convicted, pleading guilty, forfeiting bond, or pleading nolo contendere who does not possess a license to sell beer, wine, or liquors, for a first offense, is not eligible for the issuance of a license for a period of one year. For a subsequent offense, he is not eligible for the issuance of a license for a period of two years.

 Penalties provided for in this section are in addition to any fines and penalties imposed upon the licensees by any court of competent jurisdiction for violation of the laws of this State.

 Penalties provided for in this section must be paid to the State Treasurer for credit to the general fund of the State for public school use.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4270.** Monetary penalties.

 For violations of Articles 3, 5, 7, and 13 of this chapter, or of Chapter 21 or 33 of Title 12, and for a violation of any regulation pertaining to alcoholic liquors, the department may, in its discretion, impose a monetary penalty upon the holder of a liquor license in lieu of suspension or revocation.

 In these cases, the amount of any penalty imposed must be determined within the limits prescribed in this section in each case by the department after a hearing as provided in the South Carolina Revenue Procedures Act and the Administrative Procedures Act. For these violations:

 (1) retail liquor licensees are subject to a penalty of not less than one hundred dollars nor more than one thousand five hundred dollars; and

 (2) wholesale liquor licensees are subject to a penalty of not less than five hundred dollars nor more than five thousand dollars.

 The department in its discretion may suspend payment of a fine or a monetary penalty imposed under this section.

 If the department imposes a monetary penalty under this section which is not paid or a contested case hearing requested within thirty days after demand by the department, the license or licenses may be suspended or revoked by the department.

 Penalties provided for in this section are in addition to any fines and penalties imposed upon the licensees by any court of competent jurisdiction for violation of the laws of this State.

 Penalties provided for in this section must be paid to the State Treasurer for credit to the general fund of the State for public school use.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4280.** Transferability of licenses or permits.

 Licenses and permits are the property of the department, are not transferable, and, upon the termination of a business or upon a change of ownership, possession, or control, or upon a substantial change in the character of the property or facilities or nature of business for which a license or permit has been issued, must be surrendered immediately to the department.

 When a person or business has multiple licenses or permits for locations within three hundred feet of each other, administrative penalties may be applied to all the licenses and permits.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4290.** Suspension of driver’s license.

 The Department of Public Safety, upon notice that a person has been convicted, pleaded guilty, forfeited bond, or entered a plea of nolo contendere for the violation of any provision of this article prohibiting the transportation of alcoholic liquors, must suspend the driver’s license of the person for a period of six months for a first offense, for a period of one year for a second offense, and for a period of two years for a third and subsequent offense. During the period of the suspension under this section, no vehicle may be registered in the person’s name under the laws of this State.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4300.** Seizure of alcoholic liquors or vehicle, vessel, or aircraft.

 If alcoholic liquors are sold from a vehicle, vessel, aircraft, or other chattel in violation of law, or if alcoholic liquors are possessed, carried, shipped, stored in, kept in, or transported in a vehicle, vessel, or aircraft in violation of law, the alcoholic liquors must be seized and sold as contraband as provided in Section 61‑6‑4310, and the vehicle, vessel, aircraft, or other chattel must be seized by a peace officer and delivered to the sheriff of the county where the seizure is made, who must proceed to forfeit and sell the chattel as provided in Sections 61‑6‑4350 to 61‑6‑4460.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4310.** Sale of seized items.

 Alcoholic liquors seized by the department, its agents, or by the division must be sold by the department at public auction to the highest bidder after advertisement. The proceeds of the sale must be turned over to the State Treasurer after first paying the cost of confiscation and sale. Alcoholic liquors seized by a peace officer, except the department, its authorized agents, or by the division, must be delivered to the sheriff of the county in which the seizure is made. The sheriff must take possession of the alcoholic liquors so seized and sell them at public auction to the highest bidder after advertisement. The proceeds of the sale, after payment of the costs of confiscation and sale, must be immediately turned over to the treasurer of the county in which the seizure was made. However, if a municipal officer makes a seizure, the chief of police must take possession of the alcoholic liquors so seized and sell them at public auction to the highest bidder after advertisement. The proceeds of the sale, after payment of costs of confiscation and sale, must be turned over to the treasurer of the municipality in which the seizure was made. No sale of alcoholic liquors seized and sold in accordance with the provisions of this section may be made to a person other than a licensed manufacturer, wholesaler, or retail dealer.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4320.** Destruction of alcoholic liquors.

 Only those alcoholic liquors which have been manufactured by a licensed manufacturer or producer, as defined in the ABC Act, or alcoholic liquors of unquestioned purity and content may be sold at public auction as provided in this article. Other liquors which are confiscated must be destroyed by the proper officers.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4330.** Bidding process.

 No alcoholic liquors sold under the provisions of this article may be delivered within five days after the sale, during which time the department in its discretion may reject any bid and order the liquors resold until a satisfactory bid is made. However, if confiscated liquors are offered for sale after advertisement, as provided in this article, on two different dates and no bids are made, the liquors must be destroyed by the proper officers.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4340.** Confiscation of certain vehicles, vessels, and aircraft.

 A vehicle, vessel, aircraft, or other chattel found at a site where alcoholic liquors are being or have been recently manufactured in violation of the law, and which vehicle, vessel, aircraft, or other chattel contains sugar, meal, yeast, or other materials used in the manufacture of alcoholic liquors, or containers used to haul alcoholic liquors, must be confiscated and sold as provided by this article.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4350.** Storage of seized chattel.

 The respective sheriffs of this State must safely store and keep chattels delivered to them pursuant to this article in the jail yard, county shops, or on other county property, if this may be safely done, but must not incur unnecessary expenses in connection with the storage of a chattel seized and delivered to them.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4360.** Notice of motor vehicle seizure.

 (A) If a chattel seized under this article is a vehicle registered with the Department of Motor Vehicles, the sheriff must obtain from the Department of Motor Vehicles the name and address of the person in whose name the car is registered and must notify the person by registered mail of the seizure. If the chattel is a vehicle registered in another state, the sheriff must request from the Department of Motor Vehicles the name and address of the registered owner of the vehicle and must notify the owner in like manner.

 (B) Immediately upon notification from the sheriff as required by subsection (A) or upon notice from the department that the name of the registered owner of the seized vehicle cannot be ascertained, the sheriff must give notice of the seizure made under this article by advertisement at least once a week for a period of three weeks in a paper of general circulation in the county. The advertisement must allege the seizure, describe the chattel, set forth in general terms the grounds of forfeiture of the seized property, and the date upon which the sale is to be made, which date must be not less than sixty days after seizure of the chattel.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4370.** Sale of chattel.

 If, before the date set for sale of a chattel seized under this article, no person claiming an interest in the chattel, as owner, lienholder, or otherwise appears and gives notice to the sheriff as required in Section 61‑6‑4390, the chattel must be sold at public auction to the highest bidder.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4380.** Proceeds of sale.

 If a chattel has been seized by municipal officers, the proceeds of a sale under Section 61‑6‑4370, less the necessary expenses of advertising and storage, must be paid to the municipality for its use. Otherwise, the proceeds must be paid to the county treasurer of the county where the chattel was seized.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4390.** Actions to recover possession of chattel.

 Before sale of a chattel under Section 61‑6‑4370, the owner, any person indebted or liable for the purchase price of the chattel, and any lienholder may bring an action to recover possession of the chattel or to recover the value of his interest in the property from the proceeds of the sale; in a proceeding under this section, the sheriff must be made a party defendant. The solicitor of the circuit in which the seizure occurred must defend all these suits.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4400.** Stay of sale; appraisals.

 Upon service upon the sheriff of a proceeding under Section 61‑6‑4390, he must stay the sale, retain the chattel, and await the order of the court. The sheriff must have the chattel appraised as appraisals are provided for in attachment cases under Section 15‑19‑270, must transmit the appraisal to the court, and must keep a copy of the appraisal in his office.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4410.** Bonds for immediate possession of chattel.

 If the owner or other person claiming an interest in a chattel seized under this article desires to obtain immediate possession of the chattel, the court may order delivery to the claimant upon execution by him of a bond payable to the sheriff having possession of the seized property, in an amount equal to the appraised value of the chattel, with security to be approved by the clerk of court. The bond must be conditioned on returning the chattel at the time of the hearing of the proceeding or at a time as the court may order. In addition, the court may order the claimant to pay the difference between the appraised value of the chattel as of the time it has been so released on bond and the appraised value as of the time of its return; and conditioned further that if the chattel is not returned as ordered, the bond stands in lieu of and is forfeited in the same manner as the chattel. Notwithstanding the provisions of this section, the court may, in its discretion, refuse to order delivery of possession.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4420.** Proof of claim.

 In a proceeding brought to recover possession of a chattel seized under this article or to recover the value of an interest therein, no claim shall be allowed unless the claimant proves: (a) that he has an interest in the chattel, as owner or otherwise, which he acquired in good faith; (b) that he had at no time knowledge or reason to believe that the chattel was being or would be used in violation of the laws of this State relating to liquor; and (c) if it appears that the interest asserted by the claimant was acquired after March 28, 1956, and arises out of or is subject to any contract or agreement under which a person having a record or reputation for violating state or federal laws relating to liquor, has a right with respect to the chattel, that, before the claimant acquired his interest, or other person acquired his right under the contract or agreement, whichever occurred later, the claimant, his officer, or agent was informed, in answer to his inquiry, at the headquarters of the sheriff and police chief of the locality in which the other person acquired his right under the contract or agreement and of the locality in which the other person then resided, that the other person had no such record or reputation.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4430.** Release of seized chattel.

 If the claimant is the owner of the chattel and he prevails in a proceeding under Section 61‑6‑4390, the court must release the chattel from forfeiture and restore it to the owner.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4440.** Settlement of claims; joint claimants.

 If the claimant in a proceeding under Section 61‑6‑4390 is a lienholder whose claim is allowed and whose interest is first in order of priority among the claims and is of an amount equal to or in excess of the appraised value of the chattel, the court must release the chattel from forfeiture and order its return to him. If the claim is less than the appraised value of the chattel, the claimant may have the chattel delivered to him upon payment of the difference. If the claims of two or more lienholders whose interests are not subject to any prior or intervening interests claimed and allowed in the proceedings are allowed and are of a total amount equal to or in excess of the appraised value of the chattel, the court must, at the request of these claimants, order return of the chattel to the joint requesting claimants as are designated in the request. If the total amount of the claim is less than the appraised value of the chattel, the claimants may, upon payment of the difference, have the chattel delivered to those who are designated in the request.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4450.** Distribution of proceeds.

 If delivery is not demanded by the claimant or claimants in a proceeding under Section 61‑6‑4390, the court must order the sale of the chattel by the sheriff. Out of the proceeds of the sale the following must be paid in the following order of priority:

 (1) the claim or claims allowed in order of their priority as determined by the court;

 (2) the costs; and

 (3) the residue must be paid to the municipality or to the county treasurer as set forth in Section 61‑6‑4380.

 If no claim is proven and established as provided in this section, the court must order the sale of the chattel by the sheriff and the proceeds from the sale, after payment of costs, paid as set forth in this section.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4460.** Clear title.

 A person who purchases any chattel at a sale made by the sheriff under the provisions of this article acquires full and complete title to the chattel free and clear of prior claims, liens, or encumbrances.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4470.** Proceedings against confiscated alcoholic liquors.

 For the purpose of confiscating alcoholic liquors under the ABC Act, the provisions of Sections 12‑21‑2900 to 12‑21‑2950 must be followed as nearly as practicable.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4480.** Sheriffs’ reports of seized chattels.

 The sheriff of each county must, upon seizure of or delivery to him of a chattel seized under the provisions of this article, report the seizure of the chattel to the department setting forth in the report a description of the chattel, the name of the owner if known, the grounds upon which the chattel was seized, by whom the chattel was seized, and the appraised value of the chattel if an appraisal has been made. The sheriff must, after the chattel has been sold or disposed of in accordance with the provisions of this article, make a report to the department setting forth the amount of the sale, the purchaser, the disposition of the proceeds, or whatever disposition has been made of the chattel by the sheriff pursuant to an order of the court.

 The department must establish a system for the filing and recording of these reports.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4490.** Preemption of field.

 Ordinances of political subdivisions of this State prohibiting the acts prohibited by the provisions of this article, except Section 61‑6‑4720, are hereby suspended, it being declared that the State has occupied the field of the subjects covered thereby. Judicial and law enforcement officers of political subdivisions of this State must enforce these provisions within their respective jurisdictions.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4500.** Municipal court jurisdiction.

 Municipal courts must try and determine all cases involving a violation of this article, except Section 61‑6‑4720, occurring within the limits of the municipality in cases where the penalties prescribed do not exceed a fine of one hundred dollars or imprisonment for thirty days. These courts have jurisdiction over these criminal cases the same as that had by magistrates, with the right and duty of sending these cases occurring within the municipal limits but beyond their jurisdiction to try to higher courts. A person convicted hereunder in municipal court must be treated as a municipal prisoner.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4510.** Municipal police officers.

 Municipal police officers have the power of constables to enforce the provisions of this article, except Section 61‑6‑4720, in cases arising within the municipal limits; and in addition, have all powers to enforce these provisions as they have to enforce municipal ordinances. When in fresh and continuous pursuit of a suspect for violations of these provisions occurring within the municipal limits, police officers may follow and arrest the suspect anywhere in the State.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4520.** Federal labeling law.

 It is unlawful for a person to sell or otherwise introduce into commerce alcoholic liquors lawful under the provisions of this title, unless labeled in accordance with the provisions of the Federal Alcoholic Administration Act and rules and regulations promulgated thereunder. A violation of the provisions of this section subjects the alcoholic liquors found in the possession of a person violating this section to seizure, confiscation, and sale, as provided in Section 61‑6‑4310.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4530.** Notes of indebtedness.

 A note or other evidence of indebtedness contracted in the sale or transportation of unlawful liquors is null and void. Nor may an action or suit for the recovery of the indebtedness be entertained in any court in this State.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4540.** Search warrants.

 Upon affidavit, which may be on information and belief, to the effect that contraband liquors are being unlawfully concealed, kept, or stored in any place, a search warrant may be issued by a magistrate of the county empowering an officer or person who may be deputized to enter the place and to search the premises for the purpose of seizing the contraband liquors concealed, kept, or stored. The liquors, when seized, must be disposed of as provided for the disposition of unlawful liquors.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4550.** Discount prices.

 No person who holds a biennial license to sell alcoholic liquors for on‑premises consumption may advertise, sell, or dispense these beverages for free, at a price less than one‑half of the price regularly charged, or on a two or more for the price of one basis. Alcoholic liquors 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. The prohibition against dispensing the beverages for free does not apply to dispensing to a customer 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 license has been issued, or to a customer attending a function sponsored by the person who holds a biennial license. However, no more than two functions may be sponsored each year, and must be authorized by the department. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars or imprisoned not less than three months, in the discretion of the court.

HISTORY: 1996 Act No. 415, Section 1.

Subarticle 1

Authorized and Unauthorized Possession and Consumption of Alcoholic Liquors

**SECTION 61‑6‑4700.** Consumption of alcoholic liquor on premises.

 It is unlawful for a person to drink alcoholic liquors on the premises of a retail, wholesale, or manufacturing alcoholic liquor business or business establishment. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

 (a) for a first offense, by a fine of one hundred dollars or imprisonment for thirty days;

 (b) for a second offense, by a fine of two hundred dollars or imprisonment for sixty days; and

 (c) for a third or subsequent offense, by a fine of three hundred dollars or imprisonment for ninety days.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4710.** Lawful possession or consumption.

 (A) A person who is twenty‑one years of age or older may possess or consume lawfully acquired alcoholic liquors:

 (1) in a private residence, hotel room, or motel room;

 (2) or on other property not engaged in business or commercial activity, 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. However, this must not be construed to authorize the possession or consumption of alcoholic liquors on premises open to the general public for which a license has been obtained pursuant to Sections 61‑6‑1600 or 61‑6‑1610.

 (3) in separate and private areas of an establishment whether or not the establishment includes premises which are licensed pursuant to Sections 61‑6‑1600 or 61‑6‑1610, where specific individuals have leased these areas for a function not open to the general public.

 (B) It is unlawful for a person to possess or consume alcoholic liquors upon any premises where the person has been forbidden to possess or consume alcoholic liquors by the owner, operator, or person in charge of the premises.

 A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1996 Act No. 415, Section 1.

**SECTION 61‑6‑4720.** Consumption of alcoholic liquor in public conveyance.

 A person who drinks alcoholic liquors in a public conveyance in this State is considered guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or be imprisoned not more than thirty days. This section does not apply to a railroad dining or club car or to an aircraft of a commercial airline transporting passengers for hire.

HISTORY: 1996 Act No. 415, Section 1.