

STATE:

SOUTH CAROLINA

General Reference:

Code of Laws of South Carolina Annotated

Basis for a DWI Charge:

Standard DWI Offense:

Under the influence of alcohol¹⁰⁶⁴-- to the extent materially and appreciably impaired. §56-5-2930(1)

Illegal Per Se Law (BAC):

≥.08^{1065and1066} -Driving With An Unlawful Alcohol Concentration -but defendant entitled to jury instruction: "totality of the evidence produced at trial may be used by the jury to determine guilt or innocence". §56-5-2933
{>.02 under 21. §56-1-286}

Presumption (BAC):

≥.08¹⁰⁶⁷ ("inferred" instead of presumed)
§56-5-2950(b)(3)

Types of Drugs/Drugs and Alcohol:

Under the influence of (1) Any Drug, (2) Any Combination of Drugs or Substances or (3) A Combination of Alcohol and Other Drugs or Substances §56-5-2930(2) and (3)

Chemical Breath Tests for Alcohol Concentration:

Preliminary Breath Test Law:

No

Implied Consent Law:

Yes §§56-5-2950(a) and 56-1-286(C)

Arrest Required (Yes/No):

Implied Consent Law Applies to

Drugs (Yes/No):

Yes §56-5-2950(a)Refusal to Submit to Chemical Test
Admitted into Evidence:**Yes** (Criminal Cases) *State v. Miller*, 185 S.E.2d 359 (S.C. 1971) and *City of Columbia v. Ervin*, 500 S.E.2d 483 (S.C. 1998)¹⁰⁶⁸

Other Information:

Violator must have his conduct at the incident site and the breath test site videotaped. §56-5-2953. (A) – if law enforcement vehicle is equipped with a videotaping device, and if breath test site is equipped with a videotaping device. §56-5-2953. (G)
A person **must** submit to a chemical test if arrested or if there is probable cause that such person violated §56-5-2945 {which makes it illegal to cause great bodily injury or death while in violation of the drunk driving law.¹⁰⁶⁹} §56-5-2946

¹⁰⁶³ "Alcohol" is defined as any substance containing any form of alcohol (e.g., ethanol, methanol, propanol, and isopropanol). §56-1-10(17)

¹⁰⁶⁴ "Alcohol concentration" is defined to mean either (1) grams of alcohol per 100 milliliters of blood or (2) other bodily fluids as determined by the South Carolina Law Enforcement Division. §56-1-10(18)

¹⁰⁶⁵ This State's illegal per se law also makes it an offense to operate a motor vehicle with an "alcohol concentration" of $\geq .08$ for other "bodily fluids" as determined by the South Carolina Law Enforcement Division. §§56-1-10(18) and 56-5-2933

¹⁰⁶⁶ $\geq .08$ if §1 of Art. VIII-A of the State's Constitution is amended with respect to the sale of certain alcoholic beverages. Act 97 of 1999

¹⁰⁶⁷ In *Ervin*, an offender refused to submit to a breath test and instead insisted he obtain an independent blood test. A law enforcement officer transported defendant to a medical facility for blood test but the officer did not authorize such a test. The facility's staff refused to perform such test without police authorization. Evidence of refusal to submit to the breath test was admissible.

¹⁰⁶⁸ *State v. Mullins*, 489 S.E.2d 923 (S.C. 1997) abrogated by §§56-5-2946 (enacted in 1998) and 56-5-2950 (as

Chemical Tests of Other Substances for Alcohol Concentration Which Are Authorized Under the Implied Consent Law:

Blood:	Yes ¹⁰⁷⁰ A breath sample test must be offered first. §56-5-2950(a)
Urine:	Yes A breath test must be offered first. §56-5-2950(a)
Other:	None

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea-Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	No ¹⁰⁷¹

Sanctions for Refusal to Submit to a Chemical Test:

Refusal to Take a <u>Preliminary Breath Test</u> :	
Criminal Sanctions (Fine/Jail):	N/A
Administrative Licensing Action (Susp/Rev):	N/A
Other:	N/A

Refusal to Take <u>Implied Consent Chemical Test</u> :	
Criminal Sanction (Fine/Jail):	None
Administrative Licensing Action (Susp/Rev):	

First refusal – **90 day suspension**; subsequent refusal¹⁰⁷² (within 10 years) – **180 days**. §56-5-2951(A) {But a person may still be issued restricted driving privileges for either employment or college education purposes. §56-5-2951}

Persons Under 21 Years Old (.02 violation): first refusal – **6 months mandatory suspension**; sub refusal (within 5 years) – **1 year mandatory suspension**. §56-5-286(B), (C) and (F)

No suspension imposed is counted as a demerit or results in any insurance penalty for automobile insurance purposes if the person under 21 whose license is suspended had an alcohol concentration less than eight one-hundredths of one percent. §56-1-286(V)

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:	
Imprisonment:	

amended in 1998).

¹⁰⁶⁹ Additional testing is not authorized if the driver has registered an alcohol concentration $\geq .08$. §56-5-2950(a).

¹⁰⁷⁰ However, an alcohol assessment is needed for license reinstatement. §56-5-2990)

¹⁰⁷¹ This licensing sanction also applies if there has been a prior admin per se violation (for person under 21 years old, (including licensing action for a .02 violation)) or prior drunk driving offense within the period of time indicated. §§56-1-286(F) and 56-5-2951(K)(2)

Term (Day, Month, Years, Etc.):	
First <u>offense</u> (misdemeanor) – None	– \$ 400 mandatory fine §56-5-2940(1); second <u>offense within 10 years</u> – (Class C Misdemeanor) – Five days to 1 year or public service employment for at least 30 days; third <u>offense within 10 years</u> – (Class A Misdemeanor) – 60 days to 3 years ; <u>fourth and subsequent offense within 10 years</u> – (Class F felony) – 1 to 5 years . §§16-1-10, 16-1-20, 16-1-90(F), 16-1-100(A) and (C) and 56-5-2940 DWI where there is great bodily injury – Class B felony, 30 days to 10 years §§16-1-10(B) and 56-5-2945
Mandatory Minimum Term:	First <u>offense</u> – none ; second <u>offense</u> – 48 hours ¹⁰⁷³ ; third <u>offense</u> – 60 days ; <u>fourth and subsequent offenses</u> – 1 year. DWI where there is great bodily injury – 30 days
Fine:	
Amount (\$ Range):	First <u>offense</u> – \$400 {mandatory} ; second <u>offense</u> – \$2,000 to \$5,000 {not to be suspended to less than \$1000}; third <u>offense</u> – \$3,800 to \$6,000 ; <u>fourth offense</u> – None . DWI where there is great bodily injury – \$5,000 to \$10,000
Mandatory Min. Fine (\$):	First <u>offense</u> – \$400 ; second <u>offense</u> – \$1,000 ; third <u>offense</u> – \$3,500 ; <u>fourth offense</u> – None . DWI where there is great bodily injury – \$5,000 §§56-5-2940 and 56-5-2945
Other Penalties:	
Community Service:	Non-Injury DWI Offenses: first offense – A minimum of 48 hours in lieu of imprisonment ¹⁰⁷⁴ ; second <u>offense</u> – Not less than 10 days in lieu of imprisonment
Restitution (e.g., Victim's Fund) Other:	Yes Victims' Compensation Fund §16-3-1110 et seq. Motor vehicle immobilization: for second or subsequent DUI violations, the violator's motor vehicles {owned or registered by him} must be 'immobilized' for a period of thirty days {unless the vehicle has been confiscated pursuant to Section 56-5-6240.} 'Immobilized' means suspension and surrender of the registration and motor vehicle license plate. ¹⁰⁷⁵ § 56-5-2942 (A), (B), (C), and (D).

¹⁰⁷² I. Sections 56-5-2940 and 56-5-2945(A)(2) provide that these minimum sanctions are mandatory and, therefore, cannot be either suspended or probated. *State v. Tisdale*, 467 S.E.2d 270 (S.C. App. 1996). However, there are exceptions: (1) an offender may be allowed to participate in out-of-jail **public service work** while serving an incarceration sentence, §24-13-660; and (2) the law provides that, notwithstanding other provisions providing for mandatory incarceration, an offender may be sentenced to **home detention** in lieu of incarceration with or without electronic monitoring. §24-13-1530. II. For an alcohol or drug offense for which a person can be imprisoned ≥90 days, the court may suspend sentence and place the offender in an alcohol and drug rehabilitation center. Upon release from this center, the court must impose a term of probation. The length of this term appears to be discretionary with the court. §§24-13-1930 and 24-13-1950.

¹⁰⁷³ Home detention may be ordered in lieu of community service. §24-13-1530

¹⁰⁷⁵ (F) An immobilized motor vehicle may be released by the department without legal or physical restraints to a person who has not been convicted of a second or subsequent violation of Section 56-5-2930, 56-5-2933, or 56-5-2945, if that person is a registered owner of the motor vehicle or a member of the household of a registered owner. The vehicle must be released if an affidavit is submitted by that person to the department stating that:

(1) he regularly drives the motor vehicle subject to immobilization;

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Child Endangerment: A person ≥18 years old who commits either a drunk driving offense under §56-5-2930 or a death or serious bodily injury drunk driving offense under §56-5-2945 (but NOT an illegal per se violation) while transporting a child <16 years old is subject to additional jail and fine sanctions which are equal to not more than half maximum jail and fine sanctions for these offenses. These sanctions are mandatory if the jail or fine sanctions have been imposed for the original offense. Also, mandatory license suspension for 60 days. §56-5-2947

Mandatory Assessments: I. In general sessions court and municipal court, a defendant must pay respectively an assessment which is equal to 100 percent of the fine actually imposed (i.e., that part of the fine that has not been suspended). §§14-1-206(A) and 14-1-208(A). II. For ANY drunk driving offense, there is a mandatory **\$100** surcharge obtained in general sessions court and a **\$25** mandatory surcharge obtained in magistrate’s and municipal courts. §14-1-211(A)(1). III. There is an additional mandatory **\$100** surcharge for ANY drunk offense under §14-1-211(A)(2). IV. Every defendant must pay a **\$12** assessment in addition to any other sanction. §56-5-2995

Administrative Licensing Actions:
Pre-DWI Conviction Licensing Action:
Administrative Per Se Law:

≥.15 BAC – first violation-30 day suspension¹⁰⁷⁶; subsequent violation¹⁰⁷⁷(within 10 years) – 60 day suspension §56-5-2951(I) {But temporary restricted license is available for education or work -cost \$100.}
Persons Under 21 Years Old-≥.02 BAC- first violation-3-month mandatory suspension; subsequent violation (within 5 years) – **6 month mandatory suspension** §56-1-286(A) and (G). A person must be attending or have completed an alcohol safety action program before license can be restored. §56-1-286(H)

Sanctions Following a Conviction for a DWI Offense:

Post DWI Conviction Licensing Action:

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- (2) the immobilized motor vehicle is necessary to his employment, transportation to an educational facility, or for the performance of essential household duties;
 - (3) no other vehicle is available for the use of the person;
 - (4) the person will not authorize the use of the motor vehicle by any other person known by him to have been convicted of a second or subsequent violation of Section 56-5-2930, 56-5-2933, or 56-5-2945;
 - (5) the person will report immediately to a local law enforcement agency any unauthorized use of the motor vehicle by a person known by him to have been convicted of a second or subsequent violation of Section 56-5-2930, 56-5-2933, or 56-5-2945. {§56-5-2942 (F)}

¹⁰⁷⁵ These suspensions are not mandatory as restricted driving privileges are available for either employment or college education purposes. §56-5-2951(J)

¹⁰⁷⁶ This licensing sanction applies if there has been either a prior refusal or prior drunk driving offense within the period of time indicated. For persons under 21 years old, it also includes a prior violation of the .15 admin per se law. §§56-1-286(F) and 56-5-2951(K)(2)

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Type of Licensing Action (Susp/Rev):	First <u>offense</u> ¹⁰⁷⁸ – suspension; second <u>offense</u> (within 10 years) – Suspension ; third <u>offense</u> (within 5 or 10 years) – Suspension ; <u>fourth and subsequent offenses</u> (within 10 years) – Revocation . §56-5-2990. DWI offense with great bodily injury– suspension §56-5-2945
Term of License Withdrawal (Days, Months, Years, etc.):	First <u>offense</u> – 6 months ; second <u>offense</u> (within 10 years) – 1 year ; third <u>offense</u> (within 10 years) – 2 years ; third <u>offense</u> (within 5 years) – 4 years ; <u>fourth and subsequent offenses</u> (within 10 years) – Permanent . §56-5-2990. <u>DWI offense causing great bodily injury</u> – Term of imprisonment plus 3 years §56-5-2945
Mandatory Minimum Term of Withdrawal:	First <u>offense</u> – For a first DWI offense, a provisional license may be issued for the 6-month suspension period provided the defendant participates in an alcohol/drug education/treatment program. §§56-1-1320 and 56-1-1330; second <u>offense</u> (within 10 years) – 1 year ; third <u>offense</u> (within 10 years) – 2 years ; third <u>offense</u> (within 5 years) – 4 years ; <u>fourth and subsequent offenses</u> (within 10 years) – 7 years (§56-1-385(A)(1)). <u>DWI offense causing great bodily injury</u> - Term of imprisonment plus 3 years
Other: Rehabilitation: Alcohol Education:	An offender whose license was suspended must successfully complete an Alcohol and Drug Safety Action Program prior to license reinstatement ¹⁰⁷⁹ However, upon the recommendation by the Medical Advisory Board, an offender’s license may be restored notwithstanding the fact that person has not successfully completed this program. §56-5-2990(b) and (d) Persons who have had the driving privileges permanently revoked must successfully complete an alcohol or drug treatment program before their licenses can be reinstated. §56-1-385(A)(3)
Vehicle Impoundment/Confiscation:	

¹⁰⁷⁷ Note: An offense is considered either a §56-5-2930, §56-5-2945 or other alcohol use and driving related law violation. §§56-1-1320 and 56-5-2990.

¹⁰⁷⁸ Notwithstanding the fact that they have not completed this program, persons who have had their driving privileges suspended via the administrative per se law must have such privileges restored after the suspension period has ended; however, they must continue to participate in the Alcohol and Drug Safety Action Program. §56-5-2951(L)

Temporary Driving Privileges (Temporary Alcohol Restricted Driver’s License): At the time of arrest, a person who is subject to licensing action under either the implied consent or the admin per se laws may be granted temporary driving privileges until a hearing on the issues can be obtained. However, these driving privileges are conditioned on the person enrolling in an Alcohol and Drug Safety Action Program and requesting a hearing within 10 days of arrest (notice of suspension). If a person fails to satisfy either of these two items, that person waives the right to a hearing and to obtain a temporary driving privileges. §§56-1-286(M) and 56-5-2951(G)

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Statutory Authority:

Yes. For a third or subsequent DWI offense (within 10 years), the vehicle either (1) owned and operated by the offender or (2) operated by an offender who is a resident of the household of the registered owner **must be forfeited.** §56-5-6240(A)

Miscellaneous Sanctions
Not Included Elsewhere:

Publishing of Offenders' Names: Under §56-5-3000, the licensing agency shall publish the names and addresses of persons whose licenses were suspended under §56-5-2990 (i.e., for DWI).

Ignition Interlock¹⁰⁸⁰: A person (first or subsequent offender) who violates ANY drunk driving law **may** be required to install an ignition interlock device on the vehicle that person operates (either titled in the person's name or a family member's name). The duration of ignition interlock usage is discretionary with the court. §56-5-2941

Videotaping: The law requires that law enforcement officers videotape the conduct of persons who have been stopped for a drunk driving offense (when all breath test sites have been equipped with video cameras). §56-5-2953

Other Criminal Actions Related to DWI:

Causing great bodily harm or death
State Has Such a Law:

Yes. §56-5-2945

Criminal Sanction:

(1) a mandatory fine of not less than \$5,100 nor more than \$10,100 and mandatory imprisonment for not less than thirty days nor more than fifteen years when great bodily injury results. §56-5-2945.(A) (1) 'Great bodily injury' means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ. §56-5-2945(A)

(2) a mandatory fine of not less than \$10,100 nor more than \$25,100 and mandatory imprisonment for not less than one year nor more than twenty-five years when death results. §56-5-2945. (A) (2)¹⁰⁸¹

These mandatory sentences enumerated above may not be suspended, and probation may not be granted. §56-5-2945. (A)

¹⁰⁷⁹ **Important:** The Illegal per se and Ignition Interlock laws become effective either on January 1, 2001 or when the State certifies to the legislature that all breath test sites have been equipped with video cameras. §34 of Act No. 390 of the 2000 Legislative Session

¹⁰⁸⁰ **Special Note:** (1) An offender may be allowed to participate in out-of-jail **public service work** while serving an incarceration sentence. §24-13-660. (2) Also, the law provides that, notwithstanding other provisions providing for mandatory incarceration, an offender may be sentenced to **home detention** in lieu of incarceration with or without electronic monitoring. §24-13-1530

Licensing Action Authorized
Length of Term of
Licensing Withdrawal:

Suspension §56-5-2945(B)

Term of imprisonment plus 3 years §56-5-2945

Mandatory Action--Minimum
Length of License

Withdrawal:

I. Class B felony offense – **Term of imprisonment plus 3 years** §56-5-2945

II. Class E felony – 1 year¹⁰⁸² §56-5-2910

Other:

Assessments: I. In general sessions court, a defendant must pay an assessment which is equal to 100 percent of the fine actually imposed (i.e., the fine that has not been suspended). §14-1-206(A). II. There is a **\$100** mandatory surcharge obtained in general sessions court and a **\$25** mandatory surcharge obtained in magistrate's and municipal courts. §14-1-211(A)(1) **Persons Under 18 Years Old:** An offender who is <18 years old may have license suspended by the court until reaching 18th birthday. §20-7-1333(B)

Driving While License Suspended or Revoked
Where the Basis Was a DWI Offense:

Sanction:

Criminal:

Imprisonment (Term):

First offense (misdemeanor) – **10 to 30 days**; second offense within five years – (misdemeanor) – **60 days to 6 months**; third and subsequent offense within five years – (Class A Misdemeanor) – **6 months to 3 years**. §§16-1-10(C), 16-1-20, 16-1-100(A) and 56-1-460(A)(2) and (B)

Mandatory Minimum Term
of Imprisonment:

First offense – **10 days**^{1083and1084}; second offense – **60 days**; third and subsequent offense – **6 months**; §56-1-460(A)(2)

Fine (\$ Range):

First offense – **\$200**^{1085and1086}; second offense – **\$500**; third and subsequent offense – **None** §56-1-460(A)(1)

Mandatory Minimum Fine:

None

Administrative Licensing Actions:

Type of Licensing Action

¹⁰⁸¹ After 1 year, a person may petition the circuit court for license reinstatement. The court may grant either (1) complete or (2) provisional driving privileges. A person who is granted provisional driving privileges is allowed to drive only for employment or educational needs. Note: The court cannot grant complete or provisional privileges if either intoxicating alcohol, beer, wine, drugs or narcotics were involved in the vehicular accident related to the reckless homicide offense. §56-5-2910(B)

¹⁰⁸² An offender may be allowed to participate in out-of-jail **public service work** while serving an incarceration sentence. §24-13-660. Also, notwithstanding other provisions providing for mandatory incarceration, an offender may be sentenced to **home detention** in lieu of incarceration with or without electronic monitoring. §24-13-1530

¹⁰⁸³ If the case is decided in a magistrate's court, the court is prohibited from suspending the sentence and placing the offender on probation in lieu of incarceration. §22-3-800

¹⁰⁸⁴ **Comment:** It is not clear whether a fine sanction can be imposed on a person who has been convicted of driving while suspended or revoked where the original license suspension or revocation was based on a DWI offense conviction

¹⁰⁸⁵ **Mandatory Assessments:** In general sessions court, a defendant must pay an assessment which is equal to 100 percent of the fine actually imposed (i.e., that part of the fine that has not been suspended). §14-1-206(A)

(Susp/Rev):
Length of Term of License Withdrawal:

Suspension or Revocation¹⁰⁸⁷ §56-1-460(B)
Suspension for a like period of time if the original suspension was for a definite period of time. If not, then a suspension for 3 months. If license was revoked, a new license shall not be issued for an additional **1 year** from the date such person would have otherwise been entitled to apply for a new license.
§56-1-460(B)

Persons Under 18 Years Old: An offender who is <18 years old may have the license suspended by the court until reaching the 18th birthday. §20-7-1333(B)

Mandatory Term of License
Withdrawal Action:

None

DWI Offenses and Commercial Motor Vehicles (CMV)/Commercial Driver's Licenses (CDL): A person is "disqualified" from operating a CMV for not less than 1 year (not less than 3 years if transporting hazardous materials) if, while driving a CMV, that person (1) has a BAC ≥.04 (Standard: Grams of alcohol per 100 milliliters of blood.), (2) has an alcohol concentration ≥.04 in "other bodily substances (fluids) as determined by the Law Enforcement Division, (3) is under the influence of alcohol, a controlled substance or a drug which impairs driving ability, or (4) refuses to submit to a chemical test for an alcohol concentration. Note: The disqualification section, §56-1-2110 (A)(5), appears to apply only to a refusal to submit to a chemical test for an alcohol concentration; however, the CMV implied consent section, §56-1-2130, applies to tests for both an alcohol concentration and the presence of other drugs. For either (1) a subsequent violation or (2) a combination of two or more violations of any of the above listed items, the "disqualification" is for life (10 years mandatory). In addition, CMV operators who have any "measurable" amount of alcohol in their systems must be placed "out-of-service" for 24 hours. §§56-1-2030 (1), (6), (7), (8), (9), (18) and (20), 56-1-2110, 56-1-2120, 56-1-2130 and 56-5-6190.

Special Note: I. It is a misdemeanor to operate a CVM during a CDL disqualification. For a first offense, a person is subject to an imprisonment term for 30 days (mand) and a fine of \$200 (mand). For a second offense, a person is subject to an imprisonment term for 45 consecutive days (mand) and a fine of \$500 (mand). §§16-1-10(C), 56-1-460 and 56-1-2070(D). II. A person who operates a CMV while CDL is under an out-of-service order is subject to the following sanctions: first violation-disqualification for 90 days (mand) to 1 year; second violation (within 10 years) – disqualification for 1 (mand) to 5 years; and, third or subsequent violation (within 10 years) – disqualification for 3 (mand) to 5 years. In addition, first or subsequent offenders are subject to a civil penalty of \$1,000 to \$2,500. If the offender was operating a CMV either while (1) transporting either hazardous materials, or (2) operating a vehicle designed to transport more than 15 persons, that person is subject to the following sanctions: first violation-disqualification for 180 days (mand) to 2 years; and, second or subsequent (within 10 years) – disqualification for 3 (mand) to 5 years. In addition, first or subsequent offenders are subject to a civil penalty of \$1,000 to \$2,500. §56-1-2070(E)

Habitual Traffic Offender Law:
State Has Such a Law (Yes/No):
Grounds for Being Declared an
Habitual Offender:

Yes §56-1-1010 et seq.

3 or more serious convictions or 10 or more violations rated at 4 points or more under the point system within a period of 3 years §56-1-1020(a)and(b)

Term of License Rev While

¹⁰⁸⁶ **Forfeiture:** For a fourth or subsequent offense (within 5 years), the vehicle either (1) owned and operated by the offender or (2) operated by an offender who is a resident of the household of the registered owner **must be forfeited.** §56-5-6240(A)

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Under Habitual Offender Status: **5 years** and until the court thereafter restores the driving privilege. After 1 year, this period may be reduced to 2 years upon a showing of "good cause." §56-1-1090(a) and (c)

Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status: **Felony** §56-1-1100

Sanctions Following a Conviction of Driving While on Habitual Offender Status:
Imprisonment (Term): Not more than **5 years**¹⁰⁸⁸ §56-1-1100

Mandatory Minimum Term of Imprisonment: **None**
Fine (\$ Range): **None**
Mandatory Minimum Fine (\$): **N/A**
Licensing Actions (Specify): **None**

Other State Laws Related To Alcohol Use:

Laws Requiring BAC Chemical Tests on Persons Killed in Traffic

Accidents:

State Has Such a Law (Yes/No): **Yes** §17-7-80
BAC Chemical Test Is Given to the the Following Persons:

Driver: **Yes**
Vehicle Passengers: **No**
Pedestrian: **Yes** (16 years old or older)

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase: **21** §§20-7-8920, 20-7-8925, 61-4-50(A), 61-4-580(1), 61-6-1500 and 61-6-4080(A)

Minimum Age (Years) Possession: **21** There are exceptions for home, education, religious ceremonies, and employment. The employment exception applies only to persons over 18 years old. §§20-7-320, 20-7-8920 and 20-7-8925

Minimum Age (Years) Consumption: **None**

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No): **No**

"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation): **Yes** *Jamison v. The Pantry, Inc.*, 392 S.E.2d 474 (S.C. App. 1990) and *Steele v. Rogers*, 413 S.E.2d 329 (S.C. App. 1992)¹⁰⁸⁹

¹⁰⁸⁷ In this case, the court held that a seller of alcoholic beverages to an under-aged person could be held liable for the injuries caused by such minor while intoxicated.

¹⁰⁸⁸ A licensee can be held liable for the injuries caused by an intoxicated minor who consumed alcoholic beverages on

Dram Shop Actions-Social Hosts:

No *Garren v. Cummings and McCrady, Inc.*, 345 S.E.2d 508 (S.C. App. 1986)¹⁰⁹⁰, and *Hill v. Honey's, Inc.*, 786 F. Supp. 549 (D.S.C. 1992)

Other:

A patron may not bring a cause of action against a licensee for injures he/she has sustained after becoming intoxicated at the licensee's establishment. *Tobias v. Sports Club, Inc.*, 504 S.E.2d 318 (S.C. 1998)

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action:

For alcoholic liquors^{1091and1092}-(misdemeanor) §61-6-1500 For non-intoxicating beverages-(misdemeanor) §§61-2-250 and 61-4-580(2)

Term of Imprisonment:

Alcoholic Beverages and Non-intoxicating Beverages: Not less than **3 months** §§62-2-250 and 61-6-4210

Fine (\$ Range):

Alcoholic Beverages and Non-intoxicating Beverages: Not less than **\$100** §§62-2-250 and 61-6-4210. .

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

Length of Term of License Withdrawal:

Yes, Suspension or Revocation

Alcoholic Beverages: first offense – Revocation for **1 year** or pay a penalty of \$25000; sub. offense – Revocation for **2 years** or pay a penalty of \$500. §61-6-4260 Note: Under §61-6-4270, an administrative fine of from \$100 to \$1,500 may be paid in lieu of suspension/revocation.

Non-intoxicating Beverages: Suspension/Revocation under §61-4-580-Length of suspension/revocation is not specified or an administrative fine of from \$25 to \$1,000 may be paid in lieu of suspension/revocation. §61-4-250

Criminal Actions Against Owners or Employees of Establishments that Serve

the licensee's premises notwithstanding the fact that the licensee did not provide such beverages to the minor. The court held that by violating a State regulation that prohibits licensees from allowing minors to possess or consume alcoholic beverages on their premises, the licensee had committed a negligent act in that the licensee violated a duty of care owed to the public to protect them against such intoxicated persons. *Norton v. Opening Break of Aiken, Inc.*, 462 S.E.2d 861 (S.C. 1995)

¹⁰⁸⁹ However, a person who encourages excessive consumption may be held liable for the death of another who died as a result of such over consumption. *Ballou v. Sigma Nu General Fraternity*, 352 S.E.2d 488 (S.C. App. 1986)

¹⁰⁹⁰ The term "non-intoxicating beverages" applies to beer not in excess of 5 percent alcohol and wine not in excess of 21 percent alcohol. §61-4-10. The term "alcoholic liquors" applies to all alcoholic beverages. §61-6-20(1)

¹⁰⁹¹ Nonprofit organizations that are licensed to sell alcoholic liquors in mini-bottles are prohibited from selling such beverages to intoxicated persons. §61-6-2220. The sanctions for a violation of this prohibition are as follows: first offense – fine from \$200 to \$500 and/or license suspension for not more than 30 days; second offense within three years – fine from \$200 to \$500 and/or license suspension for not more than 180 days; and third offense within three years – fine not less than \$500 and permanent license revocation. §61-6-2600. However, under §61-6-4270, an administrative fine of from \$100 to \$1,500 may be paid in lieu of suspension/revocation.

Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action:

Alcoholic Liquors: (misdemeanor); Non-intoxicating beverages-(misdemeanor)

Term of Imprisonment:

Alcoholic Beverages: **30 to 90 days** §§61-6-1500, 61-6-2600, 61-6-4080 and 61-6-4700 Non-intoxicating Beverages: **30 to 60 days** §61-4-50

Fine (\$ Range): Alcoholic Beverages: **\$100 to \$300** §§61-6-1500, 61-6-2600, 61-6-4080 and 61-6-4700 Non-intoxicating Beverages: **\$100** §61-4-50

Anti-Happy Hour Laws/Regulations:

Yes – Limited¹⁰⁹³ §61-4-160 and 61-6-4550

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):

Yes Driver and passengers §§61-4-110 and 61-6-4020

Anti-Consumption Law (Yes/No):

Yes – Driver and passengers. The law states that "[a]ny person who drinks alcoholic liquors in any public conveyance shall be deemed guilty of a misdemeanor." This provision does not apply to railroad dining/club cars or to commercial aircraft. §61-6-4720

¹⁰⁹² The law prohibits the selling of alcoholic beverages (1) for free (there are exceptions), (2) for less than half the regular price or (3) on a "two for one" basis. Any alcoholic beverage (including beer) may be sold at less than the regular price between four and eight p.m.