



Charleston County Sheriff's Office Policy and Procedures Manual

Sheriff Carl Ritchie

12-02

UNDERAGE POSSESSION OF ALCOHOLIC BEVERAGES

- ☐ NEW
- ☒ REVISED
- ☒ REVIEWED

ACA Standards Reference:
CALEA Standards Reference:
NCCHC Standards Reference:
SCLEA Standards Reference:
SC Minimum Standards:

This policy dated 1/29/2025 replaces prior policies cited above and supersedes all previously issued directives.

I. Purpose:

To establish a procedure for the handling of incidents involving the consumption or possession of alcoholic beverages by minors.

II. Policy:

It is the policy of the Charleston County Sheriff's Office to recognize the potential problems inherent to underage consumption and/or possession of alcoholic beverages. Deputies responding to calls or involved in situations in which there is information or suspicion that underage consumption and/or possession of alcoholic beverages are involved shall use a heightened level of care in the handling of these investigations.

III. Definitions:

A. For purposes of this procedure, the word "deputy" applies to all agency employees with a certification classification of Class I, Class II, or Class III, as defined by the South Carolina Criminal Justice Academy.

The following terms are used interchangeably; however, they carry guidance to specific employees based on usage of the term:

1. Deputy, deputy sheriff, detention deputy, sworn employee, uniformed sworn employee, sworn administrative employee, and
2. civilian, non-sworn employee.

B. *Employee*: When used without further clarification, the term employee is inclusive of all agency members (sworn and non-sworn).

IV. Procedure:

As stated in [§63-19-2440 \(Purchase or possession of beer, ale, wine, malt, or other fermented beverages\)](#) and [§63-19-2450 \(Purchase, Consumption, or Possession of Alcoholic Beverages\)](#) of the South Carolina Code of Laws, 1976, as amended, it is unlawful for persons under the age of twenty-one (21) to purchase or knowingly possess alcoholic beverages. If a deputy has probable cause to believe that a violation has occurred, the appropriate charge will be made, and the applicable paperwork completed.

A. If the individual charged is seventeen (17) years of age or older, but under twenty-one (21) years of age, a uniform traffic ticket may be used for violations of [§63-19-2440](#) and [§63-19-2450](#).

- B. If the individual involved is under seventeen (17) years of age, the investigating deputy should either:
 - 1. Take the individual into custody, in which case the provisions of §63-19-810 (Taking into custody; release; notification), South Carolina Code of Laws, 1976, as amended, must be followed; or
 - 2. Handle the individual informally through the Counsel, Warn and Release (CWR) provision of Charleston County Sheriff's Office *Procedure 6-08, Juvenile Operations*.
- C. Cases shall be made on the basis of constructive possession (possession that is not actual but assumed to exist) only when the deputy can articulate probable cause that the individual charged was, in fact, in possession.
- D. Under no circumstances should an underage individual who is suspected, based on reasonable and articulable facts, of being under the influence be allowed to leave an incident location unsupervised or while operating a motor vehicle.
- E. A detailed incident report will be required on all incidents involving the consumption and/or possession of alcoholic beverages by underage individuals.
 - 1. Efforts should be made to determine how the alcoholic beverages were obtained and that information, inclusive of the suspect's refusal to provide that information should be documented in the incident report.
 - 2. The deputy's observations of the underage individuals should be well documented, such as the individuals' mannerisms and possible odor of alcoholic beverage(s).
 - 3. In the event a charge is made on the basis of constructive possession, the incident report should contain facts and circumstances that gave rise to probable cause to believe the individual charged was in possession.
 - 4. The Criminal Investigations Division and the Vice Enforcement Unit will be provided copies of all paperwork involving underage consumption and/or possession.

F. Applicable Laws:

1. *§61-6-4070 Use or possession of alcoholic beverages by minor in home of parents or guardian, or for religious purpose is not unlawful.*

No provision of law prohibiting the use or possession of beer, wine or alcoholic beverages by minors shall apply to any minor in the home of his parents or guardian or to any such beverage used for religious ceremonies or purposes so long as such beverage was legally purchased.

2. *§63-19-2440 Purchase or possession of beer, ale, wine, malt, or other fermented beverages.*

- a. It is unlawful for a person under the age of twenty-one (21) to purchase or knowingly possess beer, ale, porter, wine or other similar malt or fermented beverage. Possession is prima facie evidence that it was knowingly possessed. A person violating this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than two hundred dollars.

- b. Persons eighteen (18) 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 (21) years of age.

- c. This section does not apply to any employee lawfully engaged in the sale or delivery of these beverages in an unopened container.

3. *§63-19-2450 Purchase or possession of alcoholic liquors.*

- a. It is unlawful for a person under the age of twenty-one (21) to purchase or knowingly possess alcoholic liquors. Possession is prima facie evidence that it was knowingly possessed. It is also unlawful for a person to falsely represent his age for the purpose of procuring alcoholic liquors.

- b. A person violating this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred or

more than two hundred dollars or must be imprisoned for not more than thirty (30) days.

4. *§63-19-810 Taking into custody; release; notification.*

- a. When a child found violating a criminal law or ordinance is taken into custody, the taking into custody is not an arrest. The jurisdiction of the court attaches from the time of the taking into custody. When a child is taken into custody, the deputy taking the child into custody shall notify the parent, guardian, or custodian of the child as soon as possible. Unless otherwise ordered by the court, the person taking the child into custody may release the child to a parent, a responsible adult, a responsible agent, or a court approved foster home, group home, non-secure facility, or program upon the written promise, signed by the person, to bring the child to the court at a stated time or at a time the court may direct. The written promise, accompanied by a written report by the deputy, must be submitted to the South Carolina Department of Juvenile Justice as soon as possible, but not later than twenty-four (24) hours after the child is taken into custody. If the person fails to produce the child as agreed, or upon notice from the court, a summons or a warrant may be issued for the apprehension of the person or of the child.
- b. When a child is not released pursuant to subsection (1), the deputy taking the child into custody shall immediately notify the authorized representative of the Department of Juvenile Justice, who shall respond within one hour to the location where the child is being detained. Upon responding, the authorized representative of the agency shall review the facts in the deputy's report or petition and any other relevant facts and advise the deputy if, in his opinion, there is a need for detention of the child. The deputy's written report must be furnished to the authorized representatives of the agency and must state:
 - i. the facts of the offense;
 - ii. the reason why the child was not released to the parent. Unless the child is to be detained, the child must be released by the deputy to the custody of his parents or other responsible adult upon their written promise to bring the child to the court stated at a stated time or at

a time the court may direct. However, if the offense for which the child was taken into custody is a violent crime, as defined in §16-1-60, the child may be released only by the deputy who took the child into custody. If the deputy does not consent to the release of the child, the parents or other responsible adult may apply to any judge of the family court within the circuit for an ex-parte order of release of the child. The deputy's written report must be furnished to the family court judge. The family court judge may establish conditions for such release.

- iii. When a child is taken into custody by a law enforcement officer for an offense which would be a misdemeanor or felony if committed by an adult, not including a traffic or wildlife violation over which courts other than the family court have concurrent jurisdiction as provided in §63-3-520, the law enforcement officer must also notify the principal of the school in which the child is enrolled, if any, of the nature of the offense. This information may be used by the principal for monitoring and supervisory purposes but otherwise must be kept confidential by the principal in the same manner required by §63-19-2220(E).
- iv. Juveniles may be held in non-secure custody within the law enforcement center for only the time necessary for purpose of identification, investigation, detention, intake screening, awaiting release to parents or other responsible adult, or awaiting transfer to a juvenile detention facility or to the court for a detention hearing.