

Sale of alcoholic beverages on Sunday

Number: AGO 75-252

Date: November 10, 1998

Subject:
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ALCOHOLIC BEVERAGES--POWER OF COUNTY COMMISSION TO REGULATE SUNDAY BEER SALES

To: Alton M. Towles, Attorney, Gadsden County Commission, Quincy

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QUESTION:

Does the board of county commissioners of a dry county have the authority to restrict or otherwise regulate the Sunday sale of beer?

SUMMARY:

Under s. 562.14, F. S., a board of county commissioners may restrict or otherwise regulate the hours of the sale of beer on Sunday in the unincorporated areas of the county.

It should be noted at the outset that under the local option provision of Art. VIII, s. 5, State Const., a county may prohibit the sale of intoxicating liquors, wines, or beers. As I understand it, the electors of Gadsden County have chosen only to prohibit the sale of intoxicating liquors. Thus, the sale of wines and beers in that county may be regulated by the county in accordance with the provisions of law.

The authority of a county to regulate the sale of intoxicating liquors, wines, and beers, where such is legal, finds support in several provisions of Florida Statutes. Section 125.01(1)(o), F. S., provides that, to the extent not inconsistent with general or special law, the county government shall have the power to "[e]stablish and enforce regulations for the sale of alcoholic beverages in the unincorporated areas of the county pursuant to general law." *And cf.* s. 562.45(2), F. S., relating to the right of municipalities to enact ordinances "regulating the hours of business and location of place of business, and prescribing sanitary regulations therefor, of any licensee under the beverage law within the corporate limits of such municipality." Section 562.14, F. S., states:

"(1) *Except as otherwise provided by county or municipal ordinance*, no alcoholic beverages may be sold, consumed, served, or permitted to be served or consumed in any place holding a license under the division of beverage between the hours of midnight and 7:00 a.m. of the following day (Emphasis supplied.)

(2) The division of beverage shall not be responsible for the enforcement of the hours of sale established by county or municipal ordinance."

In AGO 073-197, after discussing the history of s. 562.14, F. S., and legislative intent of that provision, I ruled that:

"Under s. 562.14, F. S., as amended by Ch. 72-230, Laws of Florida, cities and counties may continue to regulate the hours of sale of alcoholic beverages within their territorial limits. This would include the right to prohibit the sale of alcoholic beverages on Sunday, should they desire to do so."

"Alcoholic beverages" is defined in the Beverage Act as "all beverages containing more than one percent of alcohol by weight."

Section 561.01(4)(a), F. S. This definition includes beer as licensed and regulated by statute. See ss. 563.01 and 563.02, F. S.

Thus, a county may regulate the time of sale of beer pursuant to s. 562.14, F. S.

There has been no change in relevant laws since AGO 073-197 was issued; and, in reviewing the law in this area, I am of that same opinion. Thus, my ruling there is dispositive of the question here before me.

Your question is, therefore, answered in the affirmative.