COMMITTEE AMENDMENT AMENDED AND ADOPTED

May 19, 2010

**H. 4572**

Introduced by Reps. J.E. Smith, Bannister, Weeks and Hutto

S. Printed 5/19/10--S.

Read the first time April 21, 2010.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROVISIONS THAT AFFECT BEER, BY AMENDING SECTION 61-4-940, SO AS TO ALLOW WHOLESALERS AND RETAILERS OF BEER TO TEMPORARILY STORE EQUIPMENT USED IN DELIVERY OF BEER AND TO AUTHORIZE WHOLESALERS OF BEER TO SUPPLY RETAIL DEALERS OF BEER WITH DISPLAYS THAT ARE ALLOWED BY FEDERAL REGULATIONS; BY ADDING SECTION 61‑4‑960, SO AS TO ALLOW HOLDERS OF RETAIL PERMITS THAT AUTHORIZE THE SALE OF BEER OR WINE FOR OFF‑PREMISES CONSUMPTION TO HOLD A LIMITED NUMBER OF BEER TASTINGS AT THE RETAIL LOCATION EACH YEAR UNDER CERTAIN CIRCUMSTANCES; AND BY ADDING SECTION 61-4-1515, SO AS TO ALLOW A BREWERY TO OFFER BEER TASTINGS UNDER CERTAIN CONDITIONS AND TO PROVIDE FOR THE PAYMENT OF APPROPRIATE TAXES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 61‑4‑940(B), (C), and (F) of the 1976 Code are amended to read:

“(B) Except as provided in subsection (C), a manufacturer, brewer, importer, or wholesaler of beer, or a person acting on his behalf, must not furnish, give, rent, lend, or sell, directly or indirectly, to the holder of a retail permit any equipment, fixtures, free beer, or service. The holder of a retail permit, or a person acting on his behalf, must not accept, directly or indirectly, any equipment, fixtures, free beer, or service referred to in this subsection from a manufacturer, brewer, importer, or wholesaler of beer, except as provided in subsection (C). With the consent of a holder of a retail permit, the wholesaler may store for a temporary period at the permit holder’s licensed location equipment primarily utilized by the wholesaler in delivery and stocking of beer including, but not limited to, pallets, carts, and hand trucks.

(C) A wholesaler may furnish at no charge to the holder of a retail permit draft beer equipment replacement parts of nominal value, including washers, gaskets, hoses, hose connectors, clamps, and tap markers, party wagons for temporary use, and point of sale advertising specialties. A wholesaler may furnish at no charge to the holder of a retail permit product displays pursuant to the provisions of 27 Code of Federal Regulations, Section 6.83, excluding electronic refrigeration equipment. A wholesaler may also furnish the following services to a retailer: cleaning draught lines, setting boxes, rotating stock, affixing price tags to beer products, and building beer displays.

(F) No person or entity in the beer business on one tier may require a person or entity in the beer business on another tier to advertise or participate in a discount or special promotion or furnish the items delineated in subsection (C).”

SECTION 2. Article 15, Chapter 4, Title 61 of the 1976 Code is amended by adding:

“Section 61‑4‑1515. (A) Notwithstanding another provision of law, a brewery in this State is authorized to offer samples of beer brewed in this State on its licensed premises, with or without cost, to consumers under the following conditions:

(1) tastings by consumers must be held in conjunction with a tour by the consumer of the licensed premises and the entire brewing process utilized at the licensed premises;

(2) a sample shall not be offered to, or allowed to be consumed by, an intoxicated person or a person who is under the age of twenty‑one;

(3) a sample shall be no more than two ounces per brand of beer with over eight percent alcohol by weight and no more than four ounces of beer with under eight percent alcohol by weight brewed at the licensed premises; and

(4) no more than four brands of beer brewed at the licensed premises may be sampled by a consumer in a twenty‑four hour period.

(B) A brewery located in this State is authorized to sell beer on its licensed premises provided that the beer was brewed on the licensed premises with an alcohol content of fourteen percent by weight or less, subject to the following restrictions:

(1) the maximum amount of beer that may be sold to an individual per day shall be equivalent to two hundred eighty‑eight ounces in total;

(2) the beer shall only be sold in conjunction with a tour by the consumer of the licensed premises and the entire brewing process utilized at the licensed premises;

(3) the beer sold is for personal use only and cannot be resold;

(4) the beer cannot be sold to anyone holding a retail beer and wine license for the purpose of resale in their establishment;

(5) the brewery must sell the beer at the licensed premises at a price approximating retail prices generally charged for identical beverages in the county where the licensed premises are located; and

(6) the brewery must remit taxes to the Department of Revenue for beer sales in an amount equal to and in a manner required for taxes assessed by Section 12‑21‑1020 and Section 12‑21‑1030. The brewery must also remit appropriate sales and use taxes and local hospitality taxes.

(C) A person who violates the provisions of this section must be assessed a fine of one hundred dollars for each violation in addition to other applicable fines and penalties. The revenue from the one hundred dollar fine must be directed to the Department of Revenue for supplementing funds required for the department’s activities concerning licensure and regulation of alcohol.”

SECTION 3. Article 9, Chapter 4, Title 61 of the 1976 Code is amended by adding:

“Section 61‑4‑960. (A) Notwithstanding another provision of law or regulation, the holder of a retail permit authorizing the sale of beer for off‑premises consumption whose primary product is beer or wine may conduct, in accordance with department rulings or regulations, not more than twenty‑four beer tastings at any one retail location in a calendar quarter, provided that:

(1) at least ten days before the tasting, a notice detailing the specific date and hours of the tasting must be sent by first class mail or by electronic mail to the State Law Enforcement Division;

(2) the tastings must be conducted by the retailer or an agent or independent contractor of the retailer and may not be conducted by a wholesaler or manufacturer or an employee, agent, or independent contractor of a wholesaler or manufacturer. Nothing in this subsection prohibits a manufacturer or employee, agent, or independent contractor of a manufacturer from attending a tasting to provide information and offer educational material on the products to be sampled. For purposes of this subsection, a wholesaler is not considered an employee, agent, or independent contractor of a manufacturer;

(3) the products must be supplied by the retailer and may not be donated or otherwise supplied at no or reduced cost by the manufacturer or wholesaler;

(4) a sample may not be offered from more than eight products at any one tasting;

(5) no more than one container of each of the products to be sampled may be open at any time. Open containers must be visible at all times and must be removed at the conclusion of a tasting;

(6) the tasting must be held in a designated tasting area of the retail store;

(7) samples must be no more than two ounces for each product sampled as defined in Section 61‑4‑10(1);

(8) samples must be no more than one ounce for each product sampled as defined in Section 61‑4‑10(2), provided that no more than two of the total eight samples may contain more than ten percent of alcohol by weight;

(9) a person shall not be served more than one sample of each product;

(10) a sample shall not be offered to, or allowed to be consumed by, an intoxicated person or a person under the age of twenty-one years. A person tasting a sample may not be allowed to loiter on the store premises;

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

(12) the tasting may not be held in conjunction with a wine tasting pursuant to Section 61‑4‑737;

(13) a retailer, pursuant to this section, may not offer more than one sampling per day; and

(14) the tasting may not be held in conjunction with a tasting in a retail alcoholic liquor store pursuant to Section 61‑6‑1035 that is adjacent to and licensed in the same name of the retail permit authorizing the sale of beer.

(B) A person who violates the provisions of this section must be assessed a fine of one hundred dollars for each violation in addition to other applicable fines and penalties. The revenue from the one hundred dollar fine must be directed to the Department of Revenue for supplementing funds required for the department’s activities concerning licensure and regulation of alcohol.”

SECTION 4. The General Assembly finds that all the provisions contained in this act relate to one subject as required by Article III, Section 17 of the South Carolina Constitution in that each provision relates directly to or in conjunction with other sections to the subject of beer provisions concerning retail dealers, wholesalers, and breweries as stated in the title. The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in this act.

SECTION 5. The provisions of this act are severable. If any section, subsection, paragraph, item, subitem, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the act, the General Assembly hereby declaring that it would have passed each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 6. This act becomes effective upon signature of the Governor.

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