~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 21, 2014

**H. 3539**

Introduced by Reps. Rutherford and Sellers

S. Printed 5/21/14--S.

Read the first time April 15, 2014.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3539) to amend Section 61‑6‑4160, Code of Laws of South Carolina, 1976, relating to the prohibition on the sale of alcoholic liquors on certain days, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking page 1, line 39 in its entirety and inserting the following:

/ SECTION 2. Article 13, Chapter 6, Title 61 of the 1976 Code is amended by adding:

“Section 61‑6‑4157. (A) As used in this section, ‘powdered alcohol’ is alcohol prepared or sold in a powder form for either direct use or reconstitution.

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

SECTION 3. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**REVENUE IMPACT 1/**

This bill, as amended, would reduce sales and use tax revenue by an estimated $68,672 in FY2014-15. Of this amount, general fund sales and use tax revenue would be reduced by $45,782, the EIA fund would be reduced by $11,445, and the Homestead Exemption Fund would be reduced by $11,445 in FY2014-15.

**Explanation of Amendment (March 20, 2014) – By the House Judiciary Committee**

This amendment would allow the sale of alcohol on statewide election days, but would not allow the sale of alcohol on Christmas Day. Currently, twenty-seven states either ban or strictly limit the sale of alcoholic beverages on Christmas day. In South Carolina, there is no statutory provision that requires liquor stores to be closed on Christmas day, but the Department of Revenue has encouraged “red dot” stores not to operate on Christmas day. Alcohol may be served in bars, restaurants, grocery stores, and convenience stores on Christmas day provided the establishments are open for business at their discretion. If alcohol sales were banned on Christmas day, this would allow individuals to “stock-up” on alcohol in the days leading up to Christmas day. This amendment, however, would impact those individuals that would spend the holiday in a restaurant or in the bars and taverns open later in the day on Christmas.

Based on the latest data available, U.S. alcohol sales have reached $197,800,000,000 per year. Adjusting this figure for South Carolina sales and dividing by 365 days in a year yields an average estimated $5,419,178 in alcohol sales in South Carolina each day. After applying a six percent sales tax rate, this results in an estimated $325,151 in sales and use tax revenue each day. After adjusting for the liquor stores that would be closed on Christmas day and two-thirds of establishments selling alcohol would not be open for business on Christmas, yields an estimated reduction in sales and use tax revenue of $68,672 in FY2014-15. Of this amount, general fund sales and use tax revenue would be reduced by $45,782, the EIA fund would be reduced by $11,445, and the Homestead Exemption Fund would be reduced by $11,445 in FY2014-15.

## Explanation of Bill filed February 19, 2013

This bill would amend Section 61-6-4160 to delete the prohibition on the sale of alcoholic liquors on statewide election days. Currently in South Carolina, it is unlawful to sell alcoholic liquors in retail “red dot” stores, restaurants, and bars on Election Day. South Carolina is the only state that prohibits the sale of alcohol on statewide Election Day. The prohibition is rooted in the Prohibition era when saloons sometimes served as polling stations for elections. Alaska and Massachusetts also ban Election Day alcohol sales, but the local governments are authorized to provide an exemption from the ban.

The banning of alcohol sales on statewide Election Day has the effect that is similar to state and county blue laws that limit retail sales on Sunday. The current banning of alcohol sales on Election Day would allow individuals to “steal” alcohol sales from the Monday prior to Election Day as individuals “stock up” in advance of no alcohol sales allowed on Tuesday. Since Georgia and North Carolina allow the sale of alcohol on statewide Election Day, there would be no motivation to cross state lines to purchase alcohol out-of-state. This bill, therefore, is not expected to impact state or local general fund sales and use tax revenue in FY2014-15.

*Approved By:*

Frank A. Rainwater

Board of Economic Advisors

1/ This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

**A** **BILL**

TO AMEND SECTION 61‑6‑4160, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PROHIBITION ON THE SALE OF ALCOHOLIC LIQUORS ON CERTAIN DAYS, SO AS TO ALLOW THE SALE OF ALCOHOLIC LIQUORS ON STATEWIDE ELECTION DAYS.

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

SECTION 1. Section 61‑6‑4160 of the 1976 Code is amended to read:

“Section 61‑6‑4160. It is unlawful to sell alcoholic liquors on Sunday except as authorized by law, on ~~statewide election days~~ 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.”

SECTION 2. This act takes effect upon approval by the Governor.

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