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Indicates New Matter

COMMITTEE AMENDMENT AMENDED AND ADOPTED AND AMENDED

May 13, 2013

**H. 3554**

Introduced by Reps. Cole, Forrester, G.M. Smith, Stavrinakis, Herbkersman and Merrill

S. Printed 5/13/13--S. [SEC 5/14/13 2:33 PM]

Read the first time March 21, 2013.

**A** **BILL**

TO AMEND SECTION 61‑4‑1515, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SAMPLES AND SALES OF BEER AT BREWERIES, SO AS TO SPECIFY THAT FOURTEEN PERCENT ALCOHOL BY WEIGHT IS THE MAXIMUM THAT MAY BE OFFERED FOR ON‑PREMISES CONSUMPTION, TO ALLOW FOR THE SALE OF SIXTY‑FOUR OUNCES OF BEER TO A CONSUMER EVERY TWENTY‑FOUR HOURS, TO PROVIDE THE BEER MUST BE SOLD AT THE APPROXIMATE RETAIL PRICE, TO PROVIDE THAT APPROPRIATE TAXES MUST BE REMITTED, AND TO CLARIFY THAT A CERTAIN PROVISION APPLIES TO OFF‑PREMISES CONSUMPTION.

Amend Title To Conform

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

SECTION 1. Section 61‑4‑1515 of the 1976 Code is amended to read:

“Section 61‑4‑1515. (A) ~~Notwithstanding another provision of law, a~~ A brewery licensed in this State is authorized to offer samples of beer to consumers ~~brewed in this State~~ on its licensed premises, ~~with or without cost, to consumers under the~~  provided that the beer is brewed on the licensed premises with an alcoholic content of twelve percent by weight, or less, subject to the following conditions:

(1) sales to or ~~tastings~~ samplings 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~~ sales or samplings shall not be offered or made to, or allowed to be offered, made to, or 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~~

(a) no more than a total of forty‑eight ounces of beer brewed at the licensed premises, including amounts of samples offered and consumed with or without cost, shall be sold to a consumer for on‑premises consumption within a twenty‑four hour period; and

(b) of that forty‑eight ounces of beer available to be sold to a consumer within a twenty‑four hour period, no more than sixteen ounces of beer with an alcoholic weight of above eight percent, including any samples offered and consumed with or without cost, shall be sold to a consumer for on‑premises consumption within a twenty‑four hour period;

(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~~ a brewery must develop and use a system to monitor the amounts and types of beer sampled or sold to a consumer for on‑premises consumption;

(5) a 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;

(6) a brewery must remit appropriate taxes to the Department of Revenue for beer sales in an amount equal to and in a manner required for excise taxes assessed by the department. A brewery also must remit appropriate sales and use taxes and local hospitality taxes;

(7) a brewery must post information that states the alcoholic content by weight of the various types of beer available in the brewery and the penalties for convictions for: (1) driving under the influence; (2) unlawful transport of an alcoholic container; and (3) unlawful transfer of alcohol to minors, and the information shall be in signage that must be posted at each entrance, each exit, and in places in a brewery seen during a tour;

(8) a brewery must provide DAODAS approved alcohol enforcement training for the employees who serve beer on the licensed premises to consumers for on‑premises consumption, so as to prevent and prohibit unlawful sales, transfer, transport or consumption of beer by persons who are under the age of twenty‑one or who are intoxicated; and

(9) a brewery must maintain liability insurance in the amount of at least one million dollars for the biennial period for which it is licensed. Within ten days of receiving its biennial license, a brewery must send proof of this insurance to the State Division of Law Enforcement and to the Department of Revenue, where the proof of insurance information shall be retained with the department’s alcohol beverage licensing section.

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

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

(2) the beer only shall 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 also must remit appropriate sales and use taxes and local hospitality taxes.

(C) In addition to other applicable fines or penalties, ~~A~~ a person licensed as a brewery in this State who violates the provisions of this section must be assessed a fine of ~~one~~ five hundred dollars for ~~each~~ a first violation ~~in addition to other applicable fines and penalties~~. For a second violation that occurs within three years of the first violation, a person must be assessed an additional five hundred dollars. For subsequent violations within a three-year period, the department must suspend the brewery license for a period of not less than thirty days. The revenue from the ~~one hundred dollar fine~~ fines established in this section must be directed to the ~~Department of Revenue~~ State Law Enforcement Division for supplementing funds required for ~~the department’s activities concerning licensure and regulation of alcohol~~ the regulation and enforcement of this section.”

SECTION 2. Section 61-4-960(A) of the 1976 Code is amended to read:

“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)~~(13) 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.”

SECTION 3. (A) By no later than March 15, 2016, a report, compiled jointly by the Department of Revenue and the State Law Enforcement Division, shall be delivered to the chairs of the Senate Judiciary Committee, the Senate Finance Committee, the House Judiciary Committee, and the House Ways and Means Committee, and reported in the Senate and House Journals, which contains the following information:

(1) a list of civil and criminal violations and dispositions of those violations related to the provisions of Section 61‑4‑1515, including, but not limited to, sales or transfers of beer to minors or intoxicated persons, suspensions of brewery licenses, unlawful transportation of beer, and offenses of driving under the influence, if known, for the period of time from the enactment of these provisions to February 1, 2016;

(2) a total of excise and sales taxes paid by the breweries to the Department of Revenue for the period of time from the enactment of these provisions to February 1, 2016;

(3) a total of all fines and penalties paid by or assessed against persons for violations of Section 61‑4‑1515 for the period of time from the enactment of these provisions to February 1, 2016;

(4) a monthly total of the numbers of persons touring each of the breweries licensed in this State for the period of time from two months after the enactment of these provisions to February 1, 2016, and each brewery shall be responsible for providing the Department of Revenue with this information electronically on a monthly basis during the above‑described time period; and

(5) The Department of Revenue shall furnish a list of all licensed breweries upon request by the State Law Enforcement Division or local law enforcement agencies.

(B) The purpose of this report is to enable the General Assembly to consider the information provided by the report to determine if state laws should be amended and additional revenue for regulation and enforcement of Section 61‑4‑1515 should be appropriated.

SECTION 4. This act shall take effect upon approval of the Governor, except that, for a brewery licensed in the State at the time this act becomes effective, the requirements for proof of liability insurance shall apply immediately, and a licensed brewery must provide the required documentation within sixty days of the effective date of this act.

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