COMMITTEE REPORT

April 30, 2014

**H. 3833**

Introduced by Reps. Horne, Bannister and Sellers

S. Printed 4/30/14--S.

Read the first time February 18, 2014.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3833) to amend the Code of Laws of South Carolina, 1976, by adding Section 61‑4‑738 so as to allow the holder of a retail wine permit for off, 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 all after the enacting language and inserting the following:

/ SECTION 1. Article 7, Chapter 4, Title 61 of the 1976 Code is amended by adding:

“Section 61‑4‑738. (A) Notwithstanding another provision of law or regulation, the holder of a retail wine permit for off-premises consumption, whose retail space is at least ten thousand square feet and whose primary product is not beer, wine, or distilled spirits, may obtain an annual wine tastings event permit from the Department of Revenue for each separate place of business in order to conduct, in accordance with department rulings or regulations, not more than twelve wine tasting events at the retail location in a calendar quarter.

(B) An annual wine tasting event permit must be issued by the department subject to compliance with the following provisions:

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

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

(3) the retailer must not request from a manufacturer or wholesaler, nor shall a manufacturer or wholesaler provide, neither directly nor indirectly, anything of value in conjunction with a tasting event, including products to be sampled, personnel to conduct the tasting event, or additional products to be provided during a tasting event;

(4) a sample must not be offered from more than four products at any one tasting event;

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

(6) the tasting event must be held in a designated, stationary tasting area of the retail store with a distinctive barrier clearly in place, delineating the tasting event area. No one under the age of twenty-one is allowed into the tasting event area;

(7) samples must be no more than one ounce for each product sampled, as defined in Section 61‑4‑10(3);

(8) a person must not be served more than one sample of each product;

(9) a sample must 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 is not allowed to loiter on the store premises;

(10) a tasting event must not be offered for more than four hours;

(11) a retailer must not offer more than one tasting event per day;

(12) the tasting event must not be held in conjunction with a beer tasting event, held pursuant to Section 61‑4‑960 or Section 61‑4‑965; and

(13) the tasting event must not be held in conjunction with a tasting event in a retail alcoholic liquor store, pursuant to Section 61‑6‑1035, that is adjacent to and licensed in the same name of the holder of the retail wine or beer off-premses consumption permit that is conducting the wine tasting event.

(C) In addition to other applicable fines and penalties, a retailer who violates the provisions of this section must be assessed a fine of five hundred dollars for the first violation and five hundred dollars for the second violation in a twelve month period. Subsequent violations in a twelve month period are punishable by the loss of the retail off-premises consumption permit for thirty days. The revenue from the fines established in this section must be directed to the State Law Enforcement Division for supplementing funds required for regulation and enforcement of the wine tastings.

(D) Nothing in this section affects wine tastings events as authorized in Section 61‑4‑737.”

SECTION 2. Article 9, Chapter 4, Title 61 of the 1976 Code is amended by adding:

“Section 61‑4‑965. (A) Notwithstanding another provision of law or regulation, the holder of a retail permit authorizing the sale of beer for off-premises consumption, whose retail space is at least ten thousand square feet and whose primary product is not beer, wine, or distilled spirits, may obtain an annual beer tastings event permit from the Department of Revenue for each separate place of business in order to conduct, in accordance with department rulings or regulations, not more than twelve beer tastings at the retail location in a calendar quarter.

(B) An annual beer tastings event permit must be issued by the department subject to compliance with the following provisions:

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

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

(3) the retailer must not request from a manufacturer or wholesaler, nor shall a manufacturer or wholesaler provide, neither directly nor indirectly, anything of value in conjunction with the tasting event; including products to be sampled, personnel to conduct the tasting event, or additional products to be provided during the tasting event;

(4) a sample must not be offered from more than four products at any one tasting event;

(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 event;

(6) the tasting event must be held in a designated, stationary tasting area of the retail store with a distinctive barrier clearly in place, delineating the tasting event area. No one under the age of twenty-one is allowed into the tasting event area;

(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 four samples may contain more than ten percent of alcohol by weight;

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

(10) a sample must 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 is not allowed to loiter on the store premises;

(11) a tasting event must not be offered for more than four hours;

(12) a retailer must not offer more than one tasting event per day;

(13) the tasting event must not be held in conjunction with a wine tasting event , held pursuant to Section 61‑4‑737 or Section 61‑4‑738; and

(14) the tasting event must not be held in conjunction with a tasting event in a retail alcoholic liquor store, pursuant to Section 61‑6‑1035, that is adjacent to and licensed in the same name of the holder of the retail wine or beer off-premises consumption permit that is conducting the beer tasting event.

(C) In addition to other applicable fines and penalties, a retailer who violates the provisions of this section must be assessed a fine of five hundred dollars for the first violation and five hundred dollars for the second violation in a twelve month period. Subsequent violations in a twelve month period are punishable by the loss of the retail off-premises consumption permit for thirty days. The revenue from the fines established in this section must be directed to the State Law Enforcement Division for supplementing funds required for regulation and enforcement of the beer tastings.

(D) Nothing in this section affects beer tastings events as authorized in Section 61‑4‑960.”

SECTION 3. This act takes effect on January 1, 2015. /

Renumber sections to conform.

Amend title to conform.

Majority favorable. Minority unfavorable.

LUKE A. RANKIN GERALD MALLOY

For Majority. For Minority.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

A Cost to the General Fund (See Below)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

State Law Enforcement Division

The division indicates that this bill will have an impact on the General Fund of the State of approximately $1,406,586 in recurring costs. The annual cost will be for 15.00 Law Enforcement Officers II; 1.00 Law Enforcement Officer IV and 2.00 Administrative Assistants with a cost of $1,153,450 in personal service/fringe and $253,136 in operating cost and office space lease. The $675,728 in non-recurring costs is for vehicles, LEO weapons and gear and office and computer equipment.

Department of Revenue

The department indicates there will be a minimal impact to the department with this bill.

**SPECIAL NOTES:**

The Board of Economic Advisors is the appropriate entity to address any revenue impact associated with this bill.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 61‑4‑738 SO AS TO ALLOW THE HOLDER OF A RETAIL WINE PERMIT FOR OFF‑PREMISES CONSUMPTION WHOSE RETAIL SPACE IS AT LEAST TEN THOUSAND SQUARE FEET AND WHOSE PRIMARY PRODUCT IS NOT BEER, WINE, OR DISTILLED SPIRITS TO CONDUCT UP TO TWENTY‑FOUR WINE TASTINGS IN A CALENDAR QUARTER, AND TO PROVIDE RESTRICTIONS; AND BY ADDING SECTION 61‑4‑965 SO AS TO ALSO ALLOW THE HOLDER OF A RETAIL PERMIT AUTHORIZING THE SALE OF BEER FOR OFF‑PREMISES CONSUMPTION WHOSE RETAIL SPACE IS AT LEAST TEN THOUSAND SQUARE FEET AND WHOSE PRIMARY PRODUCT IS NOT BEER, WINE, OR DISTILLED SPIRITS TO CONDUCT UP TO TWENTY‑FOUR BEER TASTINGS IN A CALENDAR QUARTER, AND TO PROVIDE RESTRICTIONS.

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

SECTION 1. Article 7, Chapter 4, Title 61 of the 1976 Code is amended by adding:

“Section 61‑4‑738. (A) Notwithstanding another provision of law or regulation, the holder of a retail wine permit for off‑premises consumption whose retail space is at least ten thousand square feet and whose primary product is not beer, wine, or distilled spirits may obtain an annual wine tastings permit for each separate place of business in order to conduct, in accordance with department rulings or regulations, not more than twelve wine tastings at the retail location in a calendar quarter.

(B) An annual wine tasting permit must be issued 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 item prohibits a manufacturer or employee, agent, or independent contractor of a manufacturer or a wholesaler or employee, agent, or independent contractor of a wholesaler from attending a tasting to provide information and offer educational material on the products to be sampled. For purposes of this item, a wholesaler is not considered an employee, agent, or independent contractor of a manufacturer;

(3) the retailer may not request from a manufacturer or wholesaler, nor may a manufacturer or wholesaler provide, neither directly or indirectly, anything of value in conjunction with the tasting, including products to be sampled, personnel to conduct the tasting, or additional products to be provided during the tasting;

(4) a sample may not be offered from more than four 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, stationary tasting area of the retail store with a distinctive barrier clearly in place, delineating the tasting area. No one under the age of twenty‑one may be allowed into the tasting area;

(7) samples must be no more than one ounce for each product sampled as defined in Section 61‑4‑10(3);

(8) a person must not be served more than one sample of each product;

(9) a sample must 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;

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

(11) a retailer may not offer more than one sampling per day;

(12) the tasting may not be held in conjunction with a beer tasting pursuant to Section 61‑4‑960 or Section 61‑4‑965; and

(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.

(C) In addition to other applicable fines and penalties, a retailer who violates the provisions of this section must be assessed a fine of five hundred dollars for the first violation and five hundred dollars for the second violation in a twelve month period. Subsequent violations in a twelve month period are punishable by the loss of the retail off‑premises consumption permit for thirty days. The revenue from the fines established in this section must be directed to SLED for supplementing funds required for regulation and enforcement of the wine tastings.

(D) Nothing in this section affects tastings as authorized in Section 61‑4‑737.”

SECTION 2. Article 9, Chapter 4, Title 61 of the 1976 Code is amended by adding:

“Section 61‑4‑965. (A) Notwithstanding another provision of law or regulation, the holder of a retail permit authorizing the sale of beer for off‑premises consumption whose retail space is at least ten thousand square feet and whose primary product is not beer, wine, or distilled spirits may obtain an annual beer tastings permit for each separate place of business in order to conduct, in accordance with department rulings or regulations, not more than twelve beer tastings at the retail location in a calendar quarter.

(B) An annual beer tasting permit must be issued 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 item prohibits a manufacturer or employee, agent, or independent contractor of a manufacturer or a wholesaler or employee, agent, or independent contractor of a wholesaler from attending a tasting to provide information and offer educational material on the products to be sampled. For purposes of this item, a wholesaler is not considered an employee, agent, or independent contractor of a manufacturer;

(3) the retailer may not request from a manufacturer or wholesaler, nor may a manufacturer or wholesaler provide, neither directly or indirectly, anything of value in conjunction with the tasting; including products to be sampled, personnel to conduct the tasting, or additional products to be provided during the tasting;

(4) a sample may not be offered from more than four 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, stationary tasting area of the retail store with a distinctive barrier clearly in place, delineating the tasting area. No one under the age of twenty‑one may be allowed into the tasting area;

(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 must not be served more than one sample of each product;

(10) a sample must 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) a retailer may not offer more than one sampling per day;

(13) the tasting may not be held in conjunction with a wine tasting pursuant to Section 61‑4‑737 or Section 61‑4‑738; 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.

(C) In addition to other applicable fines and penalties, a retailer who violates the provisions of this section must be assessed a fine of five hundred dollars for the first violation and five hundred dollars for the second violation in a twelve month period. Subsequent violations in a twelve month period are punishable by the loss of the retail off‑premises consumption permit for thirty days. The revenue from the fines established in this section must be directed to SLED for supplementing funds required for regulation and enforcement of the wine tastings.

(D) Nothing in this section affects tastings as authorized in Section 61‑4‑960.”

SECTION 3. This act takes effect on January 1, 2014.

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