~~Indicates Matter Stricken~~

Indicates New Matter

AS PASSED BY THE SENATE

May 11, 2017

**H. 3137**

Introduced by Reps. Stavrinakis, McCoy, Bales, J.E. Smith, Gilliard and Bedingfield

S. Printed 5/11/17--S.

Read the first time April 11, 2017.

**A** **BILL**

TO AMEND SECTIONS 61‑6‑1140 AND 61‑6‑1150, CODE OF LAWS OF SOUTH CAROLINA, 1976, BOTH RELATED TO TASTINGS AND RETAIL SALES OF ALCOHOLIC LIQUORS AT LICENSED PREMISES OF A MICRO‑DISTILLERY OR MANUFACTURER, SO AS TO REVISE THE OUNCE AMOUNT OF ALCOHOLIC LIQUORS DISPENSED AT LICENSED PREMISES AND TO REVISE THE SALE AT RETAIL OF ALCOHOLIC LIQUORS AT LICENSED PREMISES AND TO ALLOW MIXERS TO BE USED IN TASTINGS.

Amend Title To Conform

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

SECTION 1. Section 61‑6‑1140 of the 1976 Code, as added by Act 11 of 2009, is amended to read:

“Section 61‑6‑1140. A holder of a valid micro‑distillery or manufacturer license issued by the State may permit tastings and retail sales of the alcoholic liquors produced at the licensed premises subject to the following limitations and any other limitations provided in this subarticle:

(1) tastings by and sales to consumers must be held in conjunction with a tour by the consumer of the on‑site licensed premises;

(2) the micro‑distillery or manufacturer shall establish appropriate protocols to ensure that a consumer sold or served alcoholic liquors pursuant to this section is not under twenty‑one years of age and that a consumer shall not attend more than one tasting in a day;

(3) ~~the micro‑distillery or manufacturer shall dispense alcoholic liquors for tasting in quantities not greater than one‑half ounce per sample;~~

~~(4)~~ the micro‑distillery or manufacturer may not dispense more than ~~one and one‑half~~ three ounces to an individual consumer in one day;

~~(5)~~(4) tastings and sales may occur only between the hours of nine a.m. and seven p.m., Monday through Saturday;

~~(6)~~(5) the micro‑distillery or manufacturer may charge for alcoholic liquors consumed at a tasting, but must collect and remit the liquor by the drink excise tax pursuant to the provisions of Chapter 33, Title 12;

(6) the micro‑distillery or manufacturer may provide mixers, which must be nonalcoholic and carry zero percent of alcohol by weight, in conjunction with the tasting, but the micro‑distillery or manufacturer may not charge for the mixers;

(7) tastings may not occur in conjunction with the service of food in a restaurant setting; and

(8) only brands of alcoholic liquors actually manufactured, distilled, or fermented at and distributed to wholesalers from the licensed premises may be sold or offered for tasting.”

SECTION 2. Section 61‑6‑1150 of the 1976 Code, as added by Act 11 of 2009, is amended to read:

“Section 61‑6‑1150. Authorization by this section of sales and tastings at licensed premises of a micro‑distillery or manufacturer is expressly intended for the promotion of education regarding production of alcoholic liquors in the State and not to create competition between producers and retailers. A holder of a valid micro‑distillery or manufacturer license issued by the State may:

(1) sell in any quantities the alcoholic liquors produced at the licensed premises to a wholesaler licensed by the State;

(2) transport in any quantities the alcoholic liquors produced at the licensed premises out of state for sale outside of the State;

(3) sell at retail at the licensed premises ~~only in quantities of 750‑milliliter bottles~~ the alcoholic liquors produced at the licensed premises, but only if the labels for the bottles are marked ‘not for resale’;

(4) sell at retail no more than the equivalent of three 750‑milliliter bottles of alcoholic liquors to a consumer in one business day;

(5) not allow consumption on the licensed premises of alcoholic liquors sold by the bottle at the licensed premises;

(6) maintain pricing of the alcoholic liquors sold at the licensed premises at a price approximating retail prices generally charged for identical alcoholic liquors in the county where the on‑site premises is located;

(7) in addition to the sale of alcoholic liquors as authorized by this section, sell items promoting the brand or brands of alcoholic liquors produced at that location in a room on the licensed premises separate from the locations of the tastings; ~~and~~

(8) not sell or store goods, wares, or merchandise in or from the room in which alcoholic liquors are sold or tasted;

(9) store mixers used, but not sold, in conjunction with tastings; and

(10) not allow minors into the portion of the facility where tastings are occurring.”

SECTION 3. Section 61-6-1035 of the 1976 Code is amended by adding appropriately numbered new items to read:

“( ) Mixers, which must be nonalcoholic and carry zero percent of alcohol by weight, may be provided in conjunction with the tasting, but the mixers must be provided free of charge.

( ) Store mixers used, but not sold, in conjunction with tastings.”

SECTION 4. A. Section 61‑6‑140 of the 1976 Code is amended to read:

“Section 61-6-140. ~~No more than three retail dealer licenses may be issued to one licensee, and the licensee must be eligible for a license for each store pursuant to Section 61‑6‑110.~~

~~No more than three retail dealer licenses may be issued for the use of one corporation, association, partnership, or limited partnership. A corporation having the use of a retail dealer license that is owned by another corporation is considered to be holding the retail dealer license for the use of the owning corporation.~~

To promote adequate law enforcement, regulatory measures, health care costs, and associated impacts on the health, safety, and welfare of the State’s residents resulting from the anticipated sales of liquor, and to curb relationships and practices calculated to stimulate sales and impair the State’s policy favoring trade stability and the promotion of temperance, in determining whether a political subdivision is adequately served pursuant to Section 61‑6‑170, and to provide for an orderly provision of retail dealer licenses, the issuance of retail dealer licenses must be governed pursuant to the following requirements:

(1) The department shall not issue more than three retail dealer licenses to one licensee, and the licensee must be eligible for a license for each store pursuant to Section 61‑6‑110.

(2) The limitation of no more than three retail dealer licenses to one licensee does not apply to a person having an interest in retail liquor stores as of July 1, 1978.

(3) The General Assembly finds that the issuance of multiple retail dealer licenses pursuant to this section should exist only for a time certain to serve and promote the policies set forth in this section. It is the intent of the General Assembly to provide for a sunset provision on the limitation of three retail dealer licenses held by one licensee as enacted by this section. The provisions of this section are therefore repealed on April 5, 2018.”

B. Section 61-6-150 of the 1976 Code is amended to read:

“Section 61-6-150. No person, directly or indirectly, individually or as a member of a partnership or an association, as a member or stockholder of a corporation, or as a relative to a person by blood or marriage within the second degree, may have any interest whatsoever in a retail liquor store licensed under this section except the three stores covered by his retail dealer's licenses, as provided for in Section 61‑6‑140. The prohibitions in this section do not apply to a person having an interest in retail liquor stores on July 1, 1978. It is the intent of the General Assembly to provide for a sunset provision on the limitation of three retail dealer licenses held by one licensee as enacted by this section. The provisions of this section are therefore repealed on April 5, 2018.”

C. The provisions contained in this SECTION are effective upon the signature of the Governor. Sections 61-6-140, 61-6-150 and 61-4-960(A)(13) are repealed effective April 5, 2018.

SECTION 5. The General Assembly finds that all the provisions contained in this act relate to one subject as required by Section 17, Article III of the South Carolina Constitution, 1895, in that each provision relates directly to or in conjunction with other sections relating to the subject of premises licensed to sell alcoholic liquors to consumers.

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 the act.

SECTION 6. Section 61-4-1515(A) of the 1976 Code, as last amended by Act 36 of 2013, is further amended to read:

“(A) A brewery ~~licensed~~ permitted in this State is authorized to ~~offer samples of~~ sell beer to consumers on its ~~licensed~~ permitted premises, provided that the beer is brewed on the ~~licensed~~ permitted premises with an alcoholic content of twelve percent by weight, or less, subject to the following conditions:

(1) sales ~~to or samplings by~~ consumers must be held in conjunction with a tour by the consumer of the ~~licensed~~ permitted premises and the entire brewing process utilized at the ~~licensed~~ permitted premises;

(2) 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) no more than a total of forty‑eight ounces of beer brewed at the ~~licensed~~ permitted 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) 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~~ permitted premises at a price approximating retail prices generally charged for identical beverages in the county where the ~~licensed~~ permitted 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:

(a) driving under the influence;

(b) unlawful transport of an alcoholic container; and

(c) 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 department or DAODAS approved alcohol enforcement training for the employees who serve beer on the ~~licensed~~ permitted 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 a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement in the amount of at least one million dollars for the biennial period for which it is ~~licensed~~ permitted. Within ten days of receiving its biennial ~~license~~ permit, a brewery must send proof of this insurance to the State Law Enforcement Division and to the Department of Revenue, where the proof of insurance information shall be retained with the department’s alcohol beverage licensing section.

SECTION 7. Section 61-4-1515(B)(1) of the 1976 Code, as last amended by Act 223 of 2014, is further amended to read:

(1) In addition to the ~~sampling and~~ sales provisions set forth in subsection (A), a brewery ~~licensed~~ permitted in this State is authorized to sell beer produced on its ~~licensed~~ permitted premises to consumers on site for on‑premises consumption within an area of its permitted and licensed premises approved by the rules and regulations of the Department of Health and Environmental Control governing eating and drinking establishments and other food service establishments. These establishments also may apply for a retail on‑premises consumption permit for the sale of beer and wine ~~of a producer~~ not produced on the licensed premises that has been purchased from a wholesaler through the three‑tier distribution chain set forth in Section 61‑4‑735 and Section 61‑4‑940.

SECTION 8. This act takes effect upon approval by the Governor.

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