~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

March 21, 2018

**H. 4729**

Introduced by Reps. Delleney, Yow, McCravy, Finlay, Spires, Loftis, G.R. Smith, Norrell, Funderburk, Huggins, Magnuson, Hewitt, Cobb‑Hunter, Jordan, Clary, Johnson, Bennett, Martin, Bernstein, W. Newton, Fry, G.M. Smith, Caskey, Long, Burns, Chumley, Bannister, Trantham, Bryant, Duckworth, Elliott, Forrest, Hayes, Henderson, Henegan, Herbkersman, Hiott, McCoy, D.C. Moss, Pitts, Pope, Simrill, J.E. Smith, Tallon, Toole, Wheeler, White, Willis and King

S. Printed 3/21/18--S.

Read the first time February 20, 2018.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 61‑6‑141 SO AS TO PROHIBIT THE DEPARTMENT OF REVENUE FROM ISSUING MORE THAN THREE RETAIL DEALER LICENSES TO ONE LICENSEE; BY ADDING SECTION 61‑6‑151 SO AS TO PROHIBIT A LICENSEE FROM HAVING AN INTEREST IN A RETAIL LIQUOR STORE OTHER THAN THE THREE STORES COVERED BY HIS RETAIL DEALER’S LICENSE; AND TO AMEND SECTION 61‑6‑1636, RELATING TO THE SALE OF ALCOHOLIC LIQUOR BY THE DRINK, SO AS TO ALLOW A LICENSED WHOLESALER TO DELIVER NEW ALCOHOLIC LIQUOR TO A PERSON LICENSED TO SELL ALCOHOLIC LIQUORS FOR ON‑PREMISES CONSUMPTION UNDER CERTAIN CIRCUMSTANCES.

Amend Title To Conform

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

SECTION 1. The General Assembly finds and declares that:

(A) The state has a substantial interest in exercising its powers and the powers granted to the state by the Twenty-first Amendment to the Constitution of the United States and in regulating alcoholic liquors, including the activities of manufacturers, importers, wholesalers, and retailers; the number and localities of retail dealer licenses; and the influences that affect the consumption levels of alcoholic liquors by the people of the state.

(B) The state’s police power to regulate the business of retail liquor sales in the manner and to the extent allowed by law including, but not limited to, Article VIII‑A, Section 1 of the South Carolina Constitution includes regulating the number and localities of retail dealer licenses that a person may be issued and regulating what wholesalers may deliver to persons licensed to sell alcoholic liquors for on-premises consumption, processes that affect~~s~~ the health, safety, and morals of the state.

(C) The public policy of this state and the legislative purpose of this act is to:

(1) strictly regulate alcoholic liquors to protect the health of this state and its residents. Excessive use of alcohol has wide ranging deleterious health effects, including death. The General Assembly acknowledges that, according to the United States Centers for Disease Control, during the period from 2006-2010 an average of 1,539 of this State’s residents suffered alcohol attributed deaths due to excessive alcohol use and the rate of binge drinking in this State is ranked among the highest in the nation.

(2) strictly regulate alcoholic liquors to protect the safety of this State and its residents. The General Assembly acknowledges that, according to the National Highway Traffic Safety Administration, this State had three hundred and thirty one alcohol-impaired-driving fatalities in 2016, which accounted for thirty-three percent of the total traffic fatalities in the State. Attributed deaths due to alcohol-impaired driving in this State is ranked among the highest in the nation.

(3) strictly regulate alcoholic liquors to protect the morals of this State and its residents by fostering moderation and responsibility in the use and consumption of alcoholic liquors. The General Assembly recognizes the prevalence of scientific data compiled by the Community Prevention Services Task Force establishing a positive association between outlet density, including the number of retail liquor stores, and excessive alcohol consumption and related harms and further concurs with the Task Force’s recommendation to limit outlet density in the effort to address those problems.

(4) protect the collection of state taxes imposed upon alcoholic liquors.

(5) protect the interests of consumers against fraud and misleading practices in the sale of alcoholic liquors and avoid problems associated with indiscriminate price cutting and excessive advertising of alcoholic liquors.

(6) provide a framework for the sale of alcoholic liquors that recognizes and encourages the beneficial aspects of competition and to prevent monopolies.

(7) maintain trade stability and provide for the continuation of control and orderly processing by the state over the number and locations of retail liquor stores.

(8) prevent the concentration of retail liquor stores in close proximity thereby affecting the health and morals of the State.

(9) prohibit discrimination in the sale of alcoholic liquors to retail licensees.

SECTION 2. Article 3, Chapter 6, Title 61 of the 1976 Code is amended to read:

“Section 61‑6‑141. To protect the health, safety, and morals of the residents of this State, the issuance of retail dealer licenses must be governed pursuant to the following requirements 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:

(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)(a) A licensee may be issued up to an additional three retail dealer licenses under the conditions provided in this item. Additional retail dealer licenses issued pursuant to this item must be for retail locations in counties with populations in excess of two hundred fifty thousand residents. Licensees issued a retail dealer license pursuant to this subitem may not operate more than two stores in a county with a population in excess of two hundred fifty thousand residents.

(b) A licensee who as of March 21, 2018 operates three retail dealer licensed stores within a county with a population in excess of two hundred fifty thousand residents may be issued two additional retail dealer licenses under subitem (a) to operate in that county.”

SECTION 3. Article 3, Chapter 6, Title 61 of the 1976 Code is amended by adding:

“Section 61‑6‑151. To protect the health, safety, and morals of the residents of this State, 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 six stores covered by his retail dealer’s licenses, as provided for in Section 61-6-141.”

SECTION 4. Section 61‑6‑1636 of the 1976 Code is amended to read:

“Section 61‑6‑1636. (A) A person licensed by this article for sale and use for on‑premises consumption shall purchase alcoholic liquor for sale by the drink from a licensed retail dealer with a wholesaler’s basic permit issued pursuant to the Federal Alcohol Administration Act or from a licensed wholesaler, as provided in subsection (C), in any size bottle, except 1.75 liter size bottles.

(B) A licensed retail dealer with a wholesaler’s basic permit issued pursuant to the Federal Alcohol Administration Act may deliver, in sealed containers, alcoholic liquor in any size bottle, except 1.75 liter size bottles, to a person licensed by this article to sell alcoholic liquors for on‑premises consumption.

(C)(1) For the purposes of this subsection, ‘new alcoholic liquor’ means alcoholic liquor not previously sold in this state. (2) A licensed wholesaler may deliver new alcoholic liquor to a person licensed by this article to sell alcoholic liquors for on‑premises consumption:

(a) in sealed containers and in any size bottle, except 1.75 liter size bottles, and

(b) only during the first one hundred and eighty days from the date of the first bill of lading in this state for that new alcoholic liquor.

(3) Within ten days of receipt of the first bill of lading, the licensed wholesaler must provide a copy of the bill of lading to the department in the manner prescribed by the department.”

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. (A)(1) Until May 31, 2018, 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. Additional retail dealer licenses may be issued to that person as provided in this section.

(B) Beginning June 1, 2018, no more than four retail dealer licenses may be issued to one licensee, and the licensee must be eligible for each license for each store pursuant to Section 61-6-110.

(C) Beginning June 1, 2020, no more than five retail dealer licenses may be issued to one licensee, and the licensee must be eligible for each license for each store pursuant to Section 61-6-110.

(D) Beginning June 1, 2022, no more than six retail dealer licenses may be issued to one licensee, and the licensee must be eligible for each license for each store pursuant to Section 61-6-110.

SECTION 7. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, then such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act and each and every section, subsection, 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 8. Pursuant to the terms of this act, the Department of Revenue, in order to conform to the terms of this act, is directed to reconsider the application for the privilege of a retail dealer license and any approval or denial for the privilege of a retail dealer license issued between April 5, 2018, and the effective date of this act.

SECTION 9. This act takes effect upon approval by the Governor.

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