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Indicates New Matter

FREE CONFERENCE COMMITTEE REPORT ADOPTED -- NOT PRINTED

May 28, 2014

**H. 3512**

Introduced by Reps. Quinn and J.E. Smith

S. Printed 5/7/14--S.

Read the first time April 9, 2013.

**A** **BILL**

TO AMEND TITLE 61, RELATING TO THE ALCOHOLIC BEVERAGE LAWS, SO AS TO AMEND SECTION 61‑6‑1560, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DISCOUNTS ON ALCOHOLIC LIQUORS OR NONALCOHOLIC ITEMS, SO AS TO ALLOW A RETAIL DEALER TO OFFER DISCOUNTS AT THE REGISTER THROUGH THE USE OF PREMIUMS, COUPONS, OR STAMPS, SO LONG AS THE COST RELATED TO THE DISCOUNT IS PROVIDED ONLY BY THE RETAIL DEALER AND IS NOT PROHIBITED BY FEDERAL LAW; TO AMEND SECTION 61-4-1515, RELATING TO SALES OF BEER IN BREWERIES SO AS TO PROVIDE FOR EATING ESTABLISHMENTS AT BREWERIES; AND TO AMEND SECTION 61‑6‑1500, RELATING TO RESTRICTIONS ON RETAIL DEALERS OF CERTAIN ALCOHOLIC PRODUCTS, SO AS TO PROHIBIT CERTAIN TRANSACTIONS TO ANOTHER RETAIL DEALER IN CERTAIN SITUATIONS, TO PROHIBIT CERTAIN TRANSACTIONS BETWEEN LOCATIONS OWNED BY THE SAME RETAIL DEALER, AND TO PROVIDE ADDITIONAL PENALTIES.

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

SECTION 1. Section 61‑6‑1560 of the 1976 Code is amended to read:

“Section 61‑6‑1650. (A) Notwithstanding any other provision of law, a retail dealer, wholesaler, or producer may offer discounts on alcoholic liquors or nonalcoholic items, listed in Section 61‑6‑1540(A), through the use of premiums, coupons, or stamps redeemable by mail.

(B) In addition to the provisions of subsection (A), a retail dealer may offer a discount on the sale of alcoholic liquor or nonalcoholic items, listed in Section 61‑6‑1540(A), at the register through the use of premiums, coupons, or stamps, so long as all costs related to the discount, including, but not limited to printing, redemption services, and the actual cost of the discount, are provided and borne only by the retail dealer and the discount is not prohibited by any federal law.”

SECTION 2. Section 61‑6‑1500 of the 1976 Code is amended to read:

“Section 61‑6‑1500. (A) A retail dealer may not:

(1) sell, barter, exchange, give, or offer for sale, barter, or exchange, or permit the sale, barter, exchange, or gift, of alcoholic liquors without regard to the size of the container:

(a) between the hours of 7:00 p.m. and 9:00 a.m.;

(b) for consumption on the premises;

(c) to a person under twenty‑one years of age;

(d) to an intoxicated person; ~~or~~

(e) to a mentally incompetent person; or

(f) to a person the retail dealer knows is another retail dealer, except as provided in Section 61‑6‑950 or between locations owned by the same retail dealer;

(2) permit the drinking of alcoholic liquors in his store or place of business;

(3) sell alcoholic liquors on credit; however, this item does not prohibit payment by electronic transfer of funds if:

(a) the transfer of funds is initiated by an irrevocable payment order on or before delivery of the alcoholic liquors; and

(b) the electronic transfer is initiated by the retailer no later than one business day after delivery; ~~or~~

(4) redeem proof‑of‑purchase certificates for any promotional item; or

(5) purchase, barter, exchange, receive, or offer to purchase, barter, exchange, receive or permit the purchase, barter, exchange, or receipt, of alcoholic liquors without regard to the size of the container from another retail dealer, except as provided in Section 61‑6‑950 or between locations owned by the same retail dealer.

However, during restricted hours a retail dealer is permitted to receive, stock, and inventory merchandise, provide for maintenance and repairs, and other necessary, related functions that do not involve the sale of alcoholic liquors.

(B)(1) It is unlawful for a person licensed to sell alcoholic liquors pursuant to the provisions of this section to knowingly and willfully refill, partially refill, or reuse a bottle of lawfully purchased alcoholic liquor, or otherwise tamper with the contents of the bottle.

(2) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction:

(a) for a first offense, must be fined five hundred dollars or imprisoned for not more than thirty days, or both;

(b) for a second or subsequent offense, must be fined one thousand dollars or imprisoned not more than six months, or both.

(3) In addition to the penalties provided in subsection (B), a violation of this section may subject the licensee or permit holder to revocation or suspension of the license or permit by the department. A third or subsequent violation of subsection (A)(1)(f) within three years of the first violation must result in a mandatory suspension of the license or permit for a period of at least thirty days. A violation of subsection (A)(5) must result in a mandatory suspension of the license or permit for a period of at least thirty days.

(4) The possession of a refilled or reused bottle or other container of alcoholic liquors is prima facie evidence of a violation of this section. A person who violates this provision must, upon conviction, have his license revoked permanently.

(C) A retail dealer must keep a record of all sales of alcoholic liquors sold to establishments licensed for on‑premises consumption. The record must include the name of the purchaser and the date and quantity of the sale by brand and bottle size.

(D) It is unlawful to sell alcoholic liquors except during lawful hours of operation.”

SECTION 3. Subarticle 1, Article 3, Chapter 6, Title 61 of the 1976 Code is amended by adding:

“Section 61‑6‑195. The department must not issue or renew a retail dealer’s license until the applicant has certified that the applicant has not purchased and will not purchase alcoholic liquors from another person that does not hold a wholesaler’s license.”

SECTION 4. Section 61‑6‑1530 of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

“( ) ‘The purchase of alcoholic liquors from this location by or on behalf of another retail dealer is unlawful and will result in the suspension of the purchaser’s retail dealer’s license’. The department must prescribe by regulation the size of the lettering and the location of the sign on the seller’s premises.”

SECTION 5. A. Section 61-4-1515 of the 1976 Code is amended to read:

(A) A brewery licensed in this State is authorized to offer samples of beer to consumers on its licensed premises, 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 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) 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 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 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:

(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 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 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.

(B) In addition to the sampling and sales provisions set forth in subsection (A), a brewery licensed in this State is authorized to sell beer produced on its licensed premises to consumers on site for on-premises consumption within an area of its 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 may also apply for a retail on-premises consumption permit for the sale of beer and wine of a producer 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.

(C) The sale of beer that is brewed on the licensed premises for on premises consumption pursuant to subsection (B) must comply with the following provisions:

(1) all provisions of subsection (A) shall apply to sales under subsection (B) and (C), except subsections (A)(1), (3), and (4);

(2) the brewery must comply with all state and local laws concerning hours of operation applicable to eating and drinking establishments and other food service establishments holding permits to sell beer and wine for on-premises consumption;

(3) the brewery must comply with the discount pricing provisions of Section 61-4-160, applicable to persons holding permits to sell beer and wine for on-premises consumption;

(4) the brewery must sell the beer at a price approximating retail prices generally charged for identical beverages by on-premises retailers in the county where the licensed premises are located; and

(5) a wholesaler must not provide and a brewery must not accept services, equipment, fixtures, or free beer prohibited by Section 61-4-940(B), except those items authorized by Section 61-4-940(C). Changes to the brewery laws pursuant to Section 61-4-1515(B) and (C) do not alter or amend the structure of the three-tier laws of this State, and the wholesalers and the breweries must not discriminate in pricing at the producer or wholesaler levels.

(D) 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 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)~~(E) In addition to other applicable fines or penalties, a person licensed as a brewery in this State who violates the provisions of this section must be assessed a fine of five hundred dollars for a first violation. 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 fines established in this section must be directed to the State Law Enforcement Division for supplementing funds required for the regulation and enforcement of this section.

B. Notwithstanding the general effective date of this act, this SECTION takes effect upon approval by the Governor.

SECTION 6. A. 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.”

B. This SECTION takes effect upon approval by the Governor.

SECTION 7. The General Assembly finds that the sections presented in this act constitute one subject as required by Article III, Section 17 of the South Carolina Constitution, in particular finding that each change and each topic related directly to or in conjunction with other sections to the subject of changes to the laws concerning alcoholic beverages. 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 8. If any section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, 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, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, items, subitems, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 9. This act takes effect July 1, 2014.

/s/Sen. Luke A. Rankin /s/Rep. J. Derham Cole, Jr.

/s/Sen. C. Bradley Hutto /s/Rep. J. Todd Rutherford

/s/Sen. Sean M. Bennett /s/Rep. James H. Merrill

On Part of the Senate. On Part of the House.

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