**South Carolina General Assembly**

122nd Session, 2017-2018

**H. 3851**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Bernstein, Rutherford, Tallon, Bannister, McCoy, Simrill, Stavrinakis, Herbkersman, Cole, J.E. Smith, Finlay, Kirby and W. Newton

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Companion/Similar bill(s): 275

Introduced in the House on February 23, 2017

Currently residing in the House Committee on **Judiciary**

Summary: Breweries

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/23/2017 House Introduced and read first time ([House Journal‑page 29](file:///h:\hj\20170223.docx))

2/23/2017 House Referred to Committee on **Judiciary** ([House Journal‑page 29](file:///h:\hj\20170223.docx))

4/26/2017 House Member(s) request name added as sponsor: Kirby

2/13/2018 House Member(s) request name added as sponsor: W.Newton

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**VERSIONS OF THIS BILL**

[2/23/2017](file:///p:\pprever\2017-18\3851_20170223.docx)

**A** **BILL**

TO AMEND SECTION 61‑4‑1515, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO BREWERIES, SAMPLES AND SALES FOR ON‑ AND OFF‑PREMISES CONSUMPTION, SO AS TO PROVIDE THAT A BREWERY BREWING AND SELLING BEER ON ITS LICENSED PREMISES IN THIS STATE MAY APPLY FOR A PERMIT TO SELL ALCOHOLIC LIQUOR BY THE DRINK FOR CONSUMPTION WITHIN A SPECIFIED AREA UNDER CERTAIN CONDITIONS, AND TO PROVIDE THAT A BREWPUB MAY APPLY FOR A BREWERY PERMIT PROVIDED THAT IT SURRENDERS ITS BREWPUB PERMIT AT THE TIME THE BREWERY PERMIT IS ISSUED.

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

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

“Section 61‑4‑1515. (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 department or 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)(1) 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 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.

(2) In addition to the retail on‑premises consumption permit for the sale of beer and wine authorized in this subsection, a brewery brewing and selling beer on its licensed premises in this State may apply for a permit to sell alcoholic liquor by the drink for consumption within a specified area of such licensed premises physically partitioned from the brewing operation and designated for the purpose of engaging substantially and primarily in the preparation and serving of meals, so long as:

(a) the brewery maintains compliance with all provisions of Section 61‑6‑1610 and other provisions of Chapter 6 regulating the purchase and sale by restaurants of alcoholic liquor by the drink for on‑premises consumption not inconsistent with other provisions of this section;

(b) the brewery does not sell or permit the consumption of alcoholic liquor by the drink on that part of the brewery’s licensed premises designated for the brewing operation;

(c) the brewery maintains the books, records, and bank accounts of the restaurant operation separately from the books, records, and bank accounts of the brewing operation, and may allocate expenses common to both operations in a manner the brewery considers reasonable; and

(d) the physical partition between the brewing and restaurant operations may be a permanent wall or a divider permanently affixed to the premises in a manner that the general public may not freely enter the brewing operation, must be at least eight feet in height, and may contain a door or doors which remain locked during hours when the brewery is not in operation.

(C) The department shall terminate and a brewery shall surrender each permit issued to the brewery pursuant to subsection (B) immediately following inspection, determination, and report by the division to the department that brewing operations have ceased on the brewery’s licensed premises. Following reinstitution of brewing operations on the licensed premises, the brewery may apply for the applicable permits authorized by subsection (B).

(D) 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 this subsection, except subsection (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 subsection (B) and this subsection 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)~~(E) 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~~ must not be resold;

(4) the beer ~~cannot~~ must not 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.

~~(E)~~(F) A brewpub licensed pursuant to Article 17, which is a retailer for purposes of Sections 61‑4‑735(D) and 61‑4‑940(D), may make application to the department for a brewery permit and the permits authorized pursuant to subsection (B) for the brewpub’s existing licensed premises. For these applications, the department shall waive newspaper notice and sign posting requirements, except the requirements may not be waived for an alcoholic liquor by the drink application if the brewpub does not possess such a permit at the time of application. Excluding operations authorized pursuant to subsection (B), the department may not approve the applications if the applicant or any principal or person acting directly or indirectly on behalf of the applicant would have ownership or financial interest in a wholesale or retail beer, wine, or alcoholic liquor operation following brewery licensure. Contemporaneous with obtaining the brewery and applicable permits authorized pursuant to subsection (B), the applicant shall surrender the brewpub and the alcoholic liquor by the drink permits previously issued for the premises.

(G) 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.”

SECTION 2. This act takes effect upon approval by the Governor.

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