

Senate Bill 63

By: Senators Hill of the 6th, Gooch of the 51st, Albers of the 56th, Bethel of the 54th, Ginn of the 47th and others

AS PASSED

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages,
2 so as to provide for manufacturers of certain alcoholic beverages to provide to the public
3 certain quantities and types of such beverages produced by such manufacturer for
4 consumption on and off the premises; to change and provide for certain definitions; to
5 provide for the powers and duties of the state revenue commissioner as to the denial,
6 suspension, or cancellations of permits; to change certain provisions related to penalties; to
7 change certain provisions relating to the number of samples of distilled spirits that may be
8 provided to a person in a calendar day; to provide for the payment of certain taxes by
9 distillers; to provide for the issuance of tour permits to distiller; to provide for the conditions
10 under which distillery tours may be conducted; to allow certain merchandise to be offered
11 to the public by a distiller; to provide for rules and regulations by the Department of
12 Revenue; to provide for a brewpub to sell or otherwise provide certain types and quantities
13 of malt beverages manufactured on its premises for consumption on the premises; to allow
14 brewers to provide limited amounts of malt beverages directly to the public as a part of
15 educational and promotional brewery tours; to authorize a brewer to provide free souvenirs;
16 to change certain provisions related to the provision of tours by brewers; to provide for the
17 payment of certain taxes by brewers; to provide for the conditions under which brewery tours
18 may be conducted; to allow certain merchandise to be offered to the public by a brewer; to
19 provide for related matters; to repeal conflicting laws; and for other purposes.

20 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

21 **SECTION 1.**

22 Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages, is
23 amended by revising paragraph (3) of Code Section 3-1-2, relating to definitions, as follows:

24 "(3) 'Brewpub' means any eating establishment in which ~~beer or~~ malt beverages are
25 manufactured ~~or brewed~~, subject to the barrel production limitation prescribed in Code
26 Section 3-5-36 ~~for retail consumption on the premises and solely in draft form~~. As used
27 in this paragraph, the term 'eating establishment' means an establishment which is

28 licensed to sell distilled spirits, ~~beer~~, malt beverages, or wines and which derives at
 29 least 50 percent of its total annual gross food and beverage sales from the sale of prepared
 30 meals or food; provided, however, that when determining the total annual gross food and
 31 beverage sales, barrels of ~~beer~~ malt beverages sold to licensed wholesale dealers ~~for~~
 32 ~~distribution to retailers and retail consumption dealers~~, as authorized pursuant to
 33 subparagraph ~~(C)~~ (D) of paragraph (2) of Code Section 3-5-36, or to the public for
 34 consumption off the premises, as authorized pursuant to subparagraph (D) of paragraph
 35 (2) and paragraph (4) of Code Section 3-5-36, shall not be used ~~when determining the~~
 36 ~~total annual gross food and beverage sales.~~"

37 SECTION 2.

38 Said title is further amended by revising Code Section 3-2-3, relating to the powers and
 39 duties of commissioner as to denial, suspension, or cancellation of licenses and promulgation
 40 of rules and regulations as to conversion of standards of measurement to English system and
 41 labeling of distilled spirits, as follows:

42 "3-2-3.

43 In addition to his or her other duties and responsibilities to administer this title, the
 44 commissioner may:

45 (1) Deny, suspend, or cancel any license or permit required under this title if:

46 (A) The license application is not filed in good faith or is filed by some person as a
 47 subterfuge for any other person;

48 (B) Any applicant for a license or permit or any licensee or permit holder under this
 49 title willfully fails to comply with any provisions of this title or with rules and
 50 regulations adopted by the commissioner; or

51 (C) Any person to whom a license or permit has been issued is no longer engaged in
 52 the dealing of alcoholic beverages or no longer qualifies as a licensee or permit holder
 53 under this title.

54 Before any denial, suspension, or cancellation of a license or permit granted pursuant to
 55 this title, the applicant, ~~or licensee~~, or permit holder shall be afforded a hearing in the
 56 manner and subject to the conditions and procedures established by this chapter and the
 57 commissioner. The commissioner shall notify an applicant, ~~or licensee~~, or permit holder
 58 in writing of the denial, suspension, or cancellation by registered or certified mail or
 59 statutory overnight delivery to the last known address of the applicant, ~~or licensee~~, or
 60 permit holder appearing in the commissioner's files or by personal service upon the
 61 applicant, ~~or licensee~~, or permit holder by an authorized agent of the commissioner.
 62 Upon cancellation of a license or permit for cause under this paragraph, there shall be no

63 renewal or reissuance of the canceled license or permit for a period of two years from the
 64 date of cancellation;

65 (2) In the event that the license of any person is canceled by the commissioner under the
 66 authority of this title, hold the bonds of the person for a period of three years against any
 67 liabilities accruing as a result of the business of the person whose license is canceled. In
 68 no event shall the surrender of any bond release any liability;

69 (3) Enter into agreements with appropriate authorities of other states who enforce the
 70 alcoholic beverage laws thereof, to exchange information relative to the manufacture,
 71 receipt, sale, use, or transportation of alcoholic beverages;

72 (4) Promulgate rules and regulations which he or she deems necessary for the conversion
 73 from the metric system of measurement to the equivalent English measurement in United
 74 States gallons and subdivisions of gallons and shall compute all tax rates at the equivalent
 75 English measurement; and

76 (5) Promulgate rules and regulations, not inconsistent with federal laws or regulations,
 77 requiring informative labeling of all distilled spirits offered for sale in this state."

78 **SECTION 3.**

79 Said title is further amended by revising Code Section 3-3-46, relating to penalties, as
 80 follows:

81 "3-3-46.

82 (a) The violation of any provision of this article by the operator of any licensed premises
 83 or any premises for which a permit has been issued shall constitute grounds for the
 84 suspension and revocation of any and all alcoholic beverage licenses and permits issued
 85 to such operator.

86 (b) Any person who violates any provision of this article shall be guilty of a misdemeanor
 87 of a high and aggravated nature."

88 **SECTION 4.**

89 Said title is further amended by revising subsection (e) of Code Section 3-4-24, relating to
 90 issuance to fruit growers of license to manufacture distilled spirits, storage and disposition,
 91 limitations upon manufacture and sale, issuance of manufacturer's or distiller's license in
 92 certain counties or municipalities, educational and promotional tours, and tasting room
 93 limitations for certain licensees, as follows:

94 "(e) A manufacturer or distiller issued a license pursuant to this Code section may provide
 95 educational and promotional tours upon the issuance of a permit by the commissioner
 96 pursuant to Code Section 3-4-180."

97 **SECTION 5.**

98 Said title is further amended by revising subsection (e) of Code Section 3-4-24.1, relating to
 99 distiller's license authorizing manufacture of distilled spirits from agricultural products other
 100 than perishable fruits, storage, and educational and promotional tours, as follows:

101 "(e) A manufacturer or distiller issued a license pursuant to this Code section may provide
 102 educational and promotional tours upon the issuance of a permit by the commissioner
 103 pursuant to Code Section 3-4-180."

104 **SECTION 6.**

105 Said title is further amended by revising Code Section 3-4-180, relating to tastings of
 106 distilled spirits, definitions, and general provisions, as follows:

107 "3-4-180.

108 (a) As used in this Code section, the term:

109 (1) 'Distillery tour' means guided access to the manufacturing portion of the licensed
 110 premises of a distiller.

111 (2) 'Free souvenir' means a complimentary sealed container of distilled spirits.

112 ~~(1)~~(3) 'Free tastings' means the provision of complimentary samples of distilled spirits
 113 to the public for consumption on the premises of a distiller.

114 ~~(2)~~(4) 'Sample' means one-half of one ounce of distilled spirits.

115 ~~(b)(1) The commissioner shall, upon proper application therefor, issue an annual permit~~
 116 ~~to any~~ A distiller licensed in this state may apply to the commissioner for an annual
 117 permit authorizing such distiller to conduct educational and promotional distillery tours
 118 on the licensed premises of the distiller, free of charge or for a fee, which may include:

119 (A) Free souvenirs;

120 (B) Free food; and

121 (C) Free free tastings on the premises by members of the public of tax-paid varieties
 122 distilled spirits manufactured by such distiller.

123 (2)(A) No distiller providing free souvenirs pursuant to this subsection shall provide,
 124 directly or indirectly, more than one free souvenir to the same individual in one
 125 calendar day. Each free souvenir shall be a single bottle of distilled spirits, containing
 126 not more than 750 milliliters of distilled spirits manufactured by the distiller on the
 127 licensed premises.

128 ~~(c)~~(B) No distiller conducting free tastings under this Code section shall provide,
 129 directly or indirectly, more than the one sample three samples to a person in one
 130 calendar day. Free tastings shall consist of distilled spirits manufactured by the distiller
 131 on the licensed premises. Free tastings shall be held in a designated tasting area on the

132 premises of the distiller, and all open bottles containing distilled spirits shall be visible
133 at all times.

134 (3) Free souvenirs shall only be provided after the distillery tour and only to individuals
135 who have attended a distillery tour on the same calendar day. Free tastings and free food
136 may be provided before, during, and after a distillery tour. An individual shall be 21
137 years of age or older to receive a free souvenir or free tasting.

138 (4) The distiller shall pay all excise and use taxes on any samples and all use taxes on
139 any free souvenirs provided pursuant to this subsection.

140 (c) A distiller may provide to the public free of charge or for a fee merchandise such as
141 shirts, glasses, and other promotional items which do not contain alcoholic beverages.

142 (d) If a distiller chooses to charge a fee for a distillery tour pursuant to subsection (b) of
143 this Code section, such distiller may charge varying fees for the distillery tours, provided
144 that such fees are charged prior to the beginning of such tour. The provision of distilled
145 spirits by a distiller as part of a distillery tour pursuant to this Code section shall not be
146 deemed a retail sale of alcoholic beverages.

147 (e) No alcoholic beverages shall be sold on any licensed premises for which a permit has
148 been issued pursuant to this Code section.

149 (f) The department shall promulgate and enforce such rules and regulations as it may deem
150 necessary to effectuate the provisions of this Code section."

151 **SECTION 7.**

152 Said title is further amended by revising Code Section 3-5-36, relating to brewpubs and the
153 limited exception to the prohibition against ownership and employment interests between
154 manufacture, distribution, and sale of malt beverages, as follows:

155 "3-5-36.

156 A limited exception to the provisions of Code Sections 3-5-29 through 3-5-32 providing
157 a three-tier system for the distribution and sale of malt beverages shall exist for owners and
158 operators of brewpubs, subject to the following terms and conditions:

159 (1) No individual shall be permitted to own or operate a brewpub without first obtaining
160 a proper license from the commissioner in the manner provided in this title, and each
161 brewpub ~~licenseholder~~ licensee shall comply with all other applicable state and local
162 license requirements;

163 (2) A brewpub license authorizes the holder of such license to:

164 (A) Manufacture on the licensed premises not more than 10,000 barrels of ~~beer~~ malt
165 beverages in a calendar year solely for retail sale ~~on the premises~~;

166 (B) Operate an eating establishment that shall be the sole retail outlet for such ~~beer~~
167 malt beverages; and

168 (C) Operate an eating establishment that may offer for sale for consumption on the
 169 premises any other alcoholic beverages produced by other manufacturers which are
 170 authorized for retail sale under this title, including wine, distilled spirits, and malt
 171 beverages, provided that such alcoholic beverages are purchased from a licensed
 172 wholesaler ~~for consumption on the premises only~~; and, provided, further, that in
 173 addition to draft beer manufactured on the premises, each brewpub licensee shall offer
 174 for sale commercially available canned or bottled malt beverages from licensed
 175 wholesalers; and

176 ~~(C)~~(D) Notwithstanding any other provision of this paragraph, sell up to a maximum
 177 of 5,000 barrels annually of such ~~beer~~ malt beverages to licensed wholesale dealers ~~for~~
 178 ~~distribution to retailers and retail consumption dealers~~; Under no circumstances shall
 179 such malt beverages be sold by a brewpub licensee to any person holding a retail
 180 consumption dealer's license or a retailer's license for the purpose of resale;

181 (3) Possession of a brewpub license shall not prevent the holder of such license from
 182 obtaining a retail consumption dealer's license or a retailer's license for the same
 183 premises;

184 (4) A brewpub license does not authorize the holder of such license to sell alcoholic
 185 beverages by the package for consumption off the premises;

186 ~~(5) A brewpub licensee shall not offer or permit any free sampling of beer by its~~
 187 ~~customers on the premises of a brewpub;~~

188 ~~(6)~~(5) The commissioner shall not issue a brewpub license if the ~~brewpub~~ premises ~~are~~
 189 to be licensed is located in a county or municipality in which the sale of alcoholic
 190 beverages is prohibited; and

191 ~~(7)~~(6) A brewpub licensee shall:

192 (A) Pay all state and local license fees and excise taxes applicable to individuals
 193 licensed by this state as manufacturers, retailers, and, where applicable, wholesalers
 194 under this title;

195 (B) At the request of the commissioner, provide an irrevocable letter of credit or an
 196 ~~Irrevocable Standby Financial Guarantee Bond~~ bond in favor of the State of Georgia
 197 in an amount sufficient to guarantee such brewpub licensee's estimated tax liability for
 198 the first year of operation; and

199 (C) Measure ~~beer~~ malt beverages manufactured on the premises and otherwise comply
 200 with applicable rules and regulations respecting excise and enforcement tax
 201 determination of such ~~beer~~ malt beverages as required by this title."

202 **SECTION 8.**

203 Said title is further amended by revising Code Section 3-5-38, relating to free tasting of malt
 204 beverages on brewery premises during educational and promotional tours, as follows:

205 "3-5-38.

206 ~~The commissioner shall, upon proper application therefor, issue an annual permit to any~~
 207 ~~brewer licensed in this state authorizing such brewer to conduct educational and~~
 208 ~~promotional brewery tours which may include free tasting on the premises by members of~~
 209 ~~the public of tax paid varieties of malt beverages brewed by such brewer.~~

210 (a) As used in this Code section, the term:

211 (1) 'Brewery tour' means guided access to the manufacturing portion of the licensed
 212 premises of a brewer.

213 (2) 'Free souvenir' means a complimentary sealed container or containers of malt
 214 beverages with a total liquid capacity that does not exceed 72 ounces.

215 (3) 'Free tastings' means the provision of complimentary samples of malt beverages to
 216 the public for consumption on the premises of a brewer.

217 (4) 'Sample' means a quantity of malt beverages manufactured by the brewer.

218 (b)(1) A brewer licensed in this state may apply to the commissioner for an annual
 219 permit authorizing such brewer to conduct educational and promotional brewery tours on
 220 the licensed premises of the brewer, free of charge or for a fee, which may include:

221 (A) Free souvenirs;

222 (B) Free food; and

223 (C) Free tastings on the licensed premises of the brewery of malt beverages
 224 manufactured by such brewer.

225 (2) No brewer providing free souvenirs pursuant to this subsection shall provide,
 226 directly or indirectly, more than one free souvenir to the same individual in one
 227 calendar day. Each free souvenir shall consist of malt beverages manufactured by the
 228 brewer on the licensed premises.

229 (3) No brewer conducting free tastings pursuant to this subsection shall provide, directly
 230 or indirectly, to the same individual in one calendar day more than 36 ounces of malt
 231 beverages for consumption on the premises. Free tastings shall be held in a designated
 232 tasting area on the licensed premises of the brewer and all open bottles containing malt
 233 beverages shall be visible at all times.

234 (4) Free souvenirs shall only be provided after the brewery tour and only to individuals
 235 who have attended a brewery tour on the same calendar day. Free tastings and free food
 236 may be provided before, during, and after a brewery tour. An individual shall be 21 years
 237 of age or older to receive a free souvenir or free tasting.

238 (5) The brewer shall pay all excise and use taxes on any samples and all use taxes on any
239 free souvenirs provided pursuant to this subsection.
240 (c) A brewer may provide to the public free of charge or for a fee merchandise such as
241 shirts, glasses, and other promotional items which do not contain alcoholic beverages.
242 (d) If a brewer chooses to charge a fee for a brewery tour pursuant to subsection (b) of this
243 Code section, such brewer may charge varying fees for the brewery tours, provided that
244 such fees are charged prior to the beginning of such tour. The provision of malt beverages
245 by a brewer as part of a brewery tour pursuant to this Code section shall not be deemed a
246 retail sale of alcoholic beverages.
247 (e) No alcoholic beverages shall be sold on any licensed premises for which a permit has
248 been issued pursuant to this Code section.
249 (f) The department shall promulgate and enforce such rules and regulations as it may deem
250 necessary to effectuate the provisions of this Code section."

251

SECTION 9.

252 All laws and parts of laws in conflict with this Act are repealed.