

AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"(3) 'Brewpub' means any eating establishment in which malt beverages are manufactured, subject to the barrel production limitation prescribed in Code Section 3-5-36. As used in this paragraph, the term 'eating establishment' means an establishment which is licensed to sell distilled spirits, malt beverages, or wines and which derives at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food; provided, however, that when determining the total annual gross food and beverage sales, barrels of malt beverages sold to licensed wholesale dealers, as authorized pursuant to subparagraph (D) of paragraph (2) of Code Section 3-5-36, or to the public

for consumption off the premises, as authorized pursuant to subparagraph (D) of paragraph (2) and paragraph (4) of Code Section 3-5-36, shall not be used."

SECTION 2.

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

"3-2-3.

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

- (1) Deny, suspend, or cancel any license or permit required under this title if:
 - (A) The license application is not filed in good faith or is filed by some person as a subterfuge for any other person;
 - (B) Any applicant for a license or permit or any licensee or permit holder under this title willfully fails to comply with any provisions of this title or with rules and regulations adopted by the commissioner; or
 - (C) Any person to whom a license or permit has been issued is no longer engaged in the dealing of alcoholic beverages or no longer qualifies as a licensee or permit holder under this title.

Before any denial, suspension, or cancellation of a license or permit granted pursuant to this title, the applicant, licensee, or permit holder shall be afforded a hearing in the manner and subject to the conditions and procedures established by this chapter and the commissioner. The commissioner shall notify an applicant, licensee, or permit holder in writing of the denial, suspension, or cancellation by registered or certified mail or statutory overnight delivery to the last known address of the applicant, licensee, or permit holder appearing in the commissioner's files or by personal service upon the applicant, licensee, or permit holder by an authorized agent of the commissioner. Upon cancellation of a license or permit for cause under this paragraph, there shall be no renewal or reissuance of the canceled license or permit for a period of two years from the date of cancellation;

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

- (3) Enter into agreements with appropriate authorities of other states who enforce the alcoholic beverage laws thereof, to exchange information relative to the manufacture, receipt, sale, use, or transportation of alcoholic beverages;
- (4) Promulgate rules and regulations which he or she deems necessary for the conversion from the metric system of measurement to the equivalent English measurement in United States gallons and subdivisions of gallons and shall compute all tax rates at the equivalent English measurement; and
- (5) Promulgate rules and regulations, not inconsistent with federal laws or regulations, requiring informative labeling of all distilled spirits offered for sale in this state."

SECTION 3.

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

"3-3-46.

- (a) The violation of any provision of this article by the operator of any licensed premises or any premises for which a permit has been issued shall constitute grounds for the suspension and revocation of any and all alcoholic beverage licenses and permits issued to such operator.
- (b) Any person who violates any provision of this article shall be guilty of a misdemeanor of a high and aggravated nature."

SECTION 4.

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

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

SECTION 5.

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

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

SECTION 6.

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

"3-4-180.

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

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

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

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

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

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

(A) Free souvenirs;

(B) Free food; and

(C) Free tastings.

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

(B) No distiller conducting free tastings under this Code section shall provide, directly or indirectly, more than the three samples to a person in one calendar day. Free tastings shall consist of distilled spirits manufactured by the distiller on the licensed premises. Free tastings shall be held in a designated tasting area on the premises of the distiller, and all open bottles containing distilled spirits shall be visible at all times.

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

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

- (c) A distiller may provide to the public free of charge or for a fee merchandise such as shirts, glasses, and other promotional items which do not contain alcoholic beverages.
- (d) If a distiller chooses to charge a fee for a distillery tour pursuant to subsection (b) of this Code section, such distiller may charge varying fees for the distillery tours, provided that such fees are charged prior to the beginning of such tour. The provision of distilled spirits by a distiller as part of a distillery tour pursuant to this Code section shall not be deemed a retail sale of alcoholic beverages.
- (e) No alcoholic beverages shall be sold on any licensed premises for which a permit has been issued pursuant to this Code section.
- (f) The department shall promulgate and enforce such rules and regulations as it may deem necessary to effectuate the provisions of this Code section."

SECTION 7.

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

"3-5-36.

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

- (1) No individual shall be permitted to own or operate a brewpub without first obtaining a proper license from the commissioner in the manner provided in this title, and each brewpub licensee shall comply with all other applicable state and local license requirements;
- (2) A brewpub license authorizes the holder of such license to:
 - (A) Manufacture on the licensed premises not more than 10,000 barrels of malt beverages in a calendar year solely for retail sale;
 - (B) Operate an eating establishment that shall be the sole retail outlet for such malt beverages;
 - (C) Operate an eating establishment that may offer for sale for consumption on the premises any other alcoholic beverages produced by other manufacturers which are authorized for retail sale under this title, including wine, distilled spirits, and malt beverages, provided that such alcoholic beverages are purchased from a licensed wholesaler; and, provided, further, that in addition to draft beer manufactured on the premises, each brewpub licensee shall offer for sale commercially available canned or bottled malt beverages from licensed wholesalers; and

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

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

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

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

(6) A brewpub licensee shall:

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

(B) At the request of the commissioner, provide an irrevocable letter of credit or bond in favor of the State of Georgia in an amount sufficient to guarantee such brewpub licensee's estimated tax liability for the first year of operation; and

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

SECTION 8.

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

"3-5-38.

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

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

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

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

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

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

(A) Free souvenirs;

(B) Free food; and

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

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

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

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

(5) The brewer shall pay all excise and use taxes on any samples and all use taxes on any free souvenirs provided pursuant to this subsection.

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

(d) If a brewer chooses to charge a fee for a brewery tour pursuant to subsection (b) of this Code section, such brewer may charge varying fees for the brewery tours, provided that such fees are charged prior to the beginning of such tour. The provision of malt beverages by a brewer as part of a brewery tour pursuant to this Code section shall not be deemed a retail sale of alcoholic beverages.

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

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

SECTION 9.

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