

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

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 malt beverages to make limited retail sales of malt  
3 beverages under certain circumstances; to change the definition of a "brewpub"; to provide  
4 for licensed brewpubs to sell malt beverages manufactured on its premises to the public for  
5 off-premises consumption; to define the term "tasting room"; to provide for legislative intent;  
6 to create a limited exception to the three-tier distribution system so as to allow licensed malt  
7 beverage manufacturers to sell limited amounts of malt beverages directly to the public for  
8 on-premises and off-premises consumption; to provide for related matters; to provide for an  
9 effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

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

14 "(3) 'Brewpub' means any eating establishment in which beer or malt beverages are  
15 manufactured or brewed, subject to the barrel production limitation prescribed in Code  
16 Section 3-5-36 ~~for retail consumption on the premises and solely in draft form~~. As used  
17 in this paragraph, the term 'eating establishment' means an establishment which is  
18 licensed to sell distilled spirits, beer, malt beverages, or wines and which derives at  
19 least 50 percent of its total annual gross food and beverage sales from the sale of prepared  
20 meals or food; provided, however, that when determining the total annual gross food and  
21 beverage sales, barrels of beer malt beverages sold to licensed wholesale dealers ~~for~~  
22 ~~distribution to retailers and retail consumption dealers,~~ as authorized pursuant to  
23 subparagraph (C) of paragraph (2) of Code Section 3-5-36, or to the public for  
24 off-premises consumption, as authorized pursuant to subparagraph (C) of paragraph (2)  
25 and paragraph (4) of Code Section 3-5-36, shall not be used ~~when determining the total~~  
26 ~~annual gross food and beverage sales."~~

27 **SECTION 2.**

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

31 "3-5-36.

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

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

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

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

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

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

52 ~~(D)~~ (D) Notwithstanding any other provision of this paragraph, sell up to a maximum  
53 of 5,000 barrels annually of such ~~beer~~ malt beverages to:

54 (i) Licensed ~~licensed~~ wholesale dealers for distribution to retailers and retail  
55 consumption dealers;

56 (ii) The public for off-premises consumption; or

57 (iii) A combination thereof.

58 Under no circumstances shall such malt beverages be sold by a brewpub licensee to any  
59 person holding a retail consumption dealer's license or a retailer's license for the  
60 purpose of resale;

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

64 (4) A brewpub license authorizes the holder of such license to make retail sales of malt  
 65 beverages manufactured on the premises in an amount not to exceed 144 ounces per  
 66 individual, per day for consumption off of the premises. Other than malt beverage  
 67 products manufactured on the premises, a brewpub license does not authorize the holder  
 68 of such license to sell alcoholic beverages by the package for off-premises consumption  
 69 off the premises;

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

72 ~~(6)~~(5) The commissioner shall not issue a brewpub license if the ~~brewpub~~ premises are  
 73 to be licensed is located in a county or municipality in which the sale of alcoholic  
 74 beverages is prohibited; and

75 ~~(7)~~(6) A brewpub licensee shall:

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

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

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

### 86 SECTION 3.

87 Said title is further amended by repealing Code Section 3-5-38, relating to permits for free  
 88 tasting of malt beverages during educational and promotional brewery tours, and enacting  
 89 a new Code section to read as follows:

90 "3-5-38.

91 (a) The General Assembly reaffirms the policy of this state regarding the strict  
 92 enforcement of laws and regulations applicable to the manufacture or sale of malt  
 93 beverages, including, without limitation, those establishing the three-tier distribution  
 94 system with prohibitions against ownership and employment interests between the three  
 95 tiers but creates a limited exception for the operation of tasting rooms as such term is  
 96 defined in this Code section.

97 (b) As used in this Code section, the term 'tasting room' means an area:

98 (1) Used by a brewer for promoting malt beverages manufactured by such brewer  
 99 through the offering of samples and selling such malt beverages for consumption on the  
 100 premises or for consumption off the premises, or both;

101 (2) Located on the licensed premises of the brewer or on property located contiguous to  
 102 such premises; and

103 (3) Owned or leased by the brewer or an affiliate of the brewer.

104 (c) A brewer licensed under this title may sell to the public in a tasting room malt  
 105 beverages manufactured by such brewer subject to the following limitations as to the  
 106 furnishing of such malt beverages:

107 (1) A maximum of 72 ounces per person, per day for consumption on the premises; and

108 (2) A maximum of 144 ounces per person, per day for consumption off the premises.

109 (d) In accordance with Code Section 3-5-27, no interpretation of this Code section or any  
 110 relating Code sections may authorize the direct sale of malt beverages from a brewer to any  
 111 person holding a retail consumption dealer's license or a retailer's license for the purpose  
 112 of resale.

113 (e) Malt beverages sold in a tasting room shall be sold at a price approximating retail  
 114 prices generally charged for identical beverages in the county where such tasting room is  
 115 located.

116 (f) Malt beverages sold by a brewer pursuant to this Code section shall have levied thereon  
 117 an excise tax as prescribed by Code Sections 3-5-60 and 3-5-80, and such tax shall be  
 118 reported and remitted to the commissioner as provided in Code Section 3-2-6.

119 (g) In accordance with Code Section 3-2-1 and paragraph (3) of subsection (a) of Code  
 120 Section 50-13-4, the department shall promulgate and enforce such rules and regulations  
 121 as it may deem necessary to make effective the provisions of this Code section. No  
 122 additional permit, license, or occupational license tax shall be imposed for the operation  
 123 of a tasting room. No surety bond for an operation of a tasting room by a brewer shall be  
 124 required beyond the requirements set forth in Code Section 3-5-25.1 as it relates to Code  
 125 Section 3-5-20.

126 (h) Any brewer licensed in this state may conduct educational and promotional tours."

127 **SECTION 4.**

128 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 129 without such approval.

130 **SECTION 5.**

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