COMMITTEE REPORT

May 5, 2010

**H. 4572**

Introduced by Reps. J.E. Smith, Bannister, Weeks and Hutto

S. Printed 5/5/10--S. [SEC 5/6/10 3:42 PM]

Read the first time April 21, 2010.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4572) to amend the Code of Laws of South Carolina, 1976, by adding Section 61‑4‑960 so as to allow holders of retail permits authorizing the sale of beer, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, page 2, by striking lines 19-24 in their entirety and inserting the following:

/ (9) a person shall not be served more than one sample of each product;

(10) a sample shall not be offered to, or allowed to be consumed by, an intoxicated person or a person under the age of twenty‑one years. A person tasting a sample may not be allowed to loiter on the store premises; /

Amend the bill further, as and if amended, page 2, by striking line 40 in its entirety and inserting the following:

/ SECTION 2. Article 15, Chapter 4, Title 61 of the 1976 Code is amended by adding:

“Section 61‑4‑1515. (A) Notwithstanding another provision of law, a brewery in this State is authorized to offer samples of beer brewed in this State on its licensed premises, with or without cost, to consumers under the following conditions:

(1) tastings 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) a sample may not be offered to, or allowed to be consumed by, an intoxicated person or a person who is under the age of twenty‑one;

(3) a sample may be no more than two ounces per brand of beer with over eight percent alcohol by weight and no more than four ounces of beer with under eight percent alcohol by weight brewed at the licensed premises; and

(4) no more than four brands of beer brewed at the licensed premises may be sampled by a consumer in a twenty‑four hour period.

(B) A brewery located in this State is authorized to sell beer on its licensed premises provided that the beer was brewed on the licensed premises with an alcohol content of fourteen percent by weight or less, subject to the following restrictions:

(1) the maximum amount of beer that may be sold to an individual per day shall be equivalent to two hundred eighty‑eight ounces in total;

(2) the beer may only 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 must also remit appropriate sales and use taxes and local hospitality taxes.”

SECTION 3. Section 61‑4‑940(B), (C), and (F) of the 1976 Code is amended to read:

“(B) Except as provided in subsection (C), a manufacturer, brewer, importer, or wholesaler of beer, or a person acting on his behalf, must not furnish, give, rent, lend, or sell, directly or indirectly, to the holder of a retail permit any equipment, fixtures, free beer, or service. The holder of a retail permit, or a person acting on his behalf, must not accept, directly or indirectly, any equipment, fixtures, free beer, or service referred to in this subsection from a manufacturer, brewer, importer, or wholesaler of beer, except as provided in subsection (C). With the consent of a holder of a retail permit, the wholesaler may store for a temporary period at the permit holder’s licensed location equipment primarily utilized by the wholesaler in delivery and stocking of beer including, but not limited to, pallets, carts, and hand trucks.

(C) A wholesaler may furnish at no charge to the holder of a retail permit draft beer equipment replacement parts of nominal value, including washers, gaskets, hoses, hose connectors, clamps, and tap markers, party wagons for temporary use, and point of sale advertising specialties. A wholesaler may furnish at no charge to the holder of a retail permit product displays pursuant to the provisions of 27 Code of Federal Regulations, Section 6.83, excluding electronic refrigeration equipment. A wholesaler may also furnish the following services to a retailer: cleaning draught lines, setting boxes, rotating stock, affixing price tags to beer products, and building beer displays.

(F) No person or entity in the beer business on one tier may require a person or entity in the beer business on another tier to advertise or participate in a discount or special promotion or furnish the items delineated in subsection (C).”

SECTION 4. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

C. BRADLEY HUTTO for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Department of Revenue and the South Carolina Law Enforcement Division indicate that there is no fiscal impact on the General Fund of the State with the adoption of this bill. There is no fiscal impact on federal and/or other funds.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 61‑4‑960 SO AS TO ALLOW HOLDERS OF RETAIL PERMITS AUTHORIZING THE SALE OF BEER OR WINE FOR OFF‑PREMISES CONSUMPTION TO HOLD A LIMITED NUMBER OF BEER TASTINGS AT THE RETAIL LOCATION EACH YEAR UNDER CERTAIN CIRCUMSTANCES.

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

SECTION 1. Article 9, Chapter 4, Title 61 of the 1976 Code is amended by adding:

“Section 61‑4‑960. (A) Notwithstanding another provision of law or regulation, the holder of a retail permit authorizing the sale of beer for off‑premises consumption whose primary product is beer or wine may conduct, in accordance with department rulings or regulations, not more than twenty‑four beer tastings at any one retail location in a calendar quarter, provided that:

(1) at least ten days before the tasting, a notice detailing the specific date and hours of the tasting must be sent by first class mail or by electronic mail to the State Law Enforcement Division;

(2) the tastings must be conducted by the retailer or an agent or independent contractor of the retailer and may not be conducted by a wholesaler or manufacturer or an employee, agent, or independent contractor of a wholesaler or manufacturer. Nothing in this subsection prohibits a manufacturer or employee, agent, or independent contractor of a manufacturer from attending a tasting to provide information and offer educational material on the products to be sampled. For purposes of this subsection, a wholesaler is not considered an employee, agent, or independent contractor of a manufacturer;

(3) the products must be supplied by the retailer and may not be donated or otherwise supplied at no or reduced cost by the manufacturer or wholesaler;

(4) a sample may not be offered from more than eight products at any one tasting;

(5) no more than one container of each of the products to be sampled may be open at any time. Open containers must be visible at all times and must be removed at the conclusion of a tasting;

(6) the tasting must be held in a designated tasting area of the retail store;

(7) samples must be no more than two ounces for each product sampled as defined in Section 61‑4‑10(1);

(8) samples must be no more than one ounce for each product sampled as defined in Section 61‑4‑10(2), provided that no more than two of the total eight samples may contain more than ten percent of alcohol by weight;

(9) a person may not be served more than one sample of each product;

(10) a sample may not be offered to, or allowed to be consumed by, an intoxicated person or a person under the age of twenty‑one years. A person tasting a sample may not be allowed to loiter on the store premises;

(11) a sampling may not be offered for more than four hours;

(12) the tasting may not be held in conjunction with a wine tasting pursuant to Section 61‑4‑737;

(13) a retailer, pursuant to this section, may not offer more than one sampling per day; and

(14) the tasting may not be held in conjunction with a tasting in a retail alcoholic liquor store pursuant to Section 61‑6‑1035 that is adjacent to and licensed in the same name of the retail permit authorizing the sale of beer.

(B) A person who violates the provisions of this section must be assessed a fine of one hundred dollars for each violation. The revenue from these fines must be directed to the Department of Revenue for supplementing funds required for the department’s activities concerning licensure and regulation of alcohol.”

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

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