**South Carolina General Assembly**

119th Session, 2011-2012

**A67, R101, H3295**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Herbkersman

Document Path: l:\council\bills\dka\3173sd11.docx

Introduced in the House on January 12, 2011

Introduced in the Senate on February 2, 2011

Last Amended on June 15, 2011

Passed by the General Assembly on June 15, 2011

Governor's Action: June 17, 2011, Signed

Summary: Alcoholic permits

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/12/2011 House Introduced and read first time ([House Journal‑page 25](file:///h%3A%5Chj%20archive%5C2011%5C01-12-11.docx))

 1/12/2011 House Referred to Committee on **Judiciary** ([House Journal‑page 26](file:///h%3A%5Chj%20archive%5C2011%5C01-12-11.docx))

 1/26/2011 House Committee report: Favorable **Judiciary** ([House Journal‑page 2](file:///h%3A%5Chj%20archive%5C2011%5C01-26-11.docx))

 2/1/2011 House Read second time ([House Journal‑page 13](file:///h%3A%5Chj%20archive%5C2011%5C02-01-11.docx))

 2/1/2011 House Roll call Yeas‑54 Nays‑46 ([House Journal‑page 13](file:///h%3A%5Chj%20archive%5C2011%5C02-01-11.docx))

 2/2/2011 House Read third time and sent to Senate ([House Journal‑page 28](file:///h%3A%5Chj%20archive%5C2011%5C02-02-11.docx))

 2/2/2011 Senate Introduced and read first time ([Senate Journal‑page 12](file:///h%3A%5Csj%20archive%5C2011%5C02-02-11.docx))

 2/2/2011 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 12](file:///h%3A%5Csj%20archive%5C2011%5C02-02-11.docx))

 5/4/2011 Senate Referred to Subcommittee: Davis (ch), Sheheen, Massey

 5/11/2011 Senate Committee report: Favorable with amendment **Judiciary** ([Senate Journal‑page 17](file:///h%3A%5Csj%20archive%5C2011%5C05-11-11.docx))

 5/12/2011 Scrivener's error corrected

 5/19/2011 Senate Committee Amendment Tabled ([Senate Journal‑page 20](file:///h%3A%5Csj%20archive%5C2011%5C05-19-11.docx))

 5/19/2011 Senate Amended ([Senate Journal‑page 20](file:///h%3A%5Csj%20archive%5C2011%5C05-19-11.docx))

 5/19/2011 Senate Read second time ([Senate Journal‑page 20](file:///h%3A%5Csj%20archive%5C2011%5C05-19-11.docx))

 5/19/2011 Senate Roll call Ayes‑40 Nays‑2 ([Senate Journal‑page 20](file:///h%3A%5Csj%20archive%5C2011%5C05-19-11.docx))

 5/20/2011 Scrivener's error corrected

 5/24/2011 Senate Read third time and returned to House with amendments ([Senate Journal‑page 28](file:///h%3A%5Csj%20archive%5C2011%5C05-24-11.docx))

 5/25/2011 House Debate adjourned on amendments ([House Journal‑page 31](file:///h%3A%5Chj%20archive%5C2011%5C05-25-11.docx))

 5/25/2011 House Senate amendment amended ([House Journal‑page 117](file:///h%3A%5Chj%20archive%5C2011%5C05-25-11.docx))

 5/25/2011 House Roll call Yeas‑99 Nays‑10 ([House Journal‑page 117](file:///h%3A%5Chj%20archive%5C2011%5C05-25-11.docx))

 5/25/2011 House Returned to Senate with amendments ([House Journal‑page 117](file:///h%3A%5Chj%20archive%5C2011%5C05-25-11.docx))

 5/26/2011 House Reconsidered ([House Journal‑page 20](file:///h%3A%5Chj%20archive%5C2011%5C05-26-11.docx))

 5/26/2011 House Senate amendment amended ([House Journal‑page 21](file:///h%3A%5Chj%20archive%5C2011%5C05-26-11.docx))

 5/26/2011 House Roll call Yeas‑77 Nays‑22 ([House Journal‑page 21](file:///h%3A%5Chj%20archive%5C2011%5C05-26-11.docx))

 5/26/2011 House Returned to Senate with amendments ([House Journal‑page 21](file:///h%3A%5Chj%20archive%5C2011%5C05-26-11.docx))

 6/1/2011 Senate Non‑concurrence in House amendment ([Senate Journal‑page 176](file:///h%3A%5Csj%20archive%5C2011%5C06-01-11.docx))

 6/1/2011 Senate Roll call Ayes‑40 Nays‑2 ([Senate Journal‑page 176](file:///h%3A%5Csj%20archive%5C2011%5C06-01-11.docx))

 6/2/2011 House House insists upon amendment and conference committee appointed Reps. Tallon, Herbkersman, and Merrill ([House Journal‑page 2](file:///h%3A%5Chj%20archive%5C2011%5C06-02-11.docx))

 6/2/2011 Senate Conference committee appointed Hutto, Campbell, and Davis ([Senate Journal‑page 5](file:///h%3A%5Csj%20archive%5C2011%5C06-02-11.docx))

 6/2/2011 House Conference report received and adopted ([House Journal‑page 77](file:///h%3A%5Chj%20archive%5C2011%5C06-02-11.docx))

 6/2/2011 House Roll call Yeas‑101 Nays‑0 ([House Journal‑page 77](file:///h%3A%5Chj%20archive%5C2011%5C06-02-11.docx))

 6/15/2011 Senate Conference report received and adopted ([Senate Journal‑page 227](file:///h%3A%5Csj%20archive%5C2011%5C06-15-11.docx))

 6/15/2011 Senate Roll call Ayes‑28 Nays‑10 ([Senate Journal‑page 227](file:///h%3A%5Csj%20archive%5C2011%5C06-15-11.docx))

 6/15/2011 Senate Ordered enrolled for ratification ([Senate Journal‑page 237](file:///h%3A%5Csj%20archive%5C2011%5C06-15-11.docx))

 6/16/2011 Ratified R 101

 6/17/2011 Signed By Governor

 6/22/2011 Effective date See Act for Effective Date

 6/27/2011 Act No. 67

**VERSIONS OF THIS BILL**

[1/12/2011](file:///p%3A%5Cpprever%5C2011-12%5C3295_20110112.docx)

[1/26/2011](file:///p%3A%5Cpprever%5C2011-12%5C3295_20110126.docx)

[5/11/2011](file:///p%3A%5Cpprever%5C2011-12%5C3295_20110511.docx)

[5/12/2011](file:///p%3A%5Cpprever%5C2011-12%5C3295_20110512.docx)

[5/19/2011](file:///p%3A%5Cpprever%5C2011-12%5C3295_20110519.docx)

[5/20/2011](file:///p%3A%5Cpprever%5C2011-12%5C3295_20110520.docx)

[5/25/2011](file:///p%3A%5Cpprever%5C2011-12%5C3295_20110525.docx)

[5/26/2011](file:///p%3A%5Cpprever%5C2011-12%5C3295_20110526.docx)

[6/15/2011](file:///p%3A%5Cpprever%5C2011-12%5C3295_20110615.docx)

(A67, R101, H3295)

**AN ACT** **TO AMEND SECTION 61‑6‑20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS IN REGARD TO THE “ALCOHOLIC BEVERAGE CONTROL ACT”, SO AS TO DEFINE THE TERM “HOMEOWNERS ASSOCIATION CHARTERED AS A NONPROFIT BY THE SECRETARY OF STATE”, AND TO PROVIDE THE CONDITIONS REQUIRED FOR A NONPROFIT ORGANIZATION TO COME WITHIN THE MEANING OF THIS DEFINITION; TO AMEND SECTION 61‑6‑1820, AS AMENDED, RELATING TO THE CRITERIA FOR A NONPROFIT ORGANIZATION TO OBTAIN A LICENSE TO SELL ALCOHOLIC LIQUORS BY THE DRINK, SO AS TO PROVIDE THAT A HOMEOWNERS ASSOCIATION CHARTERED AS A NONPROFIT ORGANIZATION BY THE SECRETARY OF STATE IS ALSO ELIGIBLE FOR SUCH A LICENSE; BY ADDING SECTION 61‑6‑2015 SO AS TO PROVIDE THAT A TEMPORARY PERMIT TO SELL BEER AND WINE FOR ON‑PREMISES CONSUMPTION FOR A PERIOD NOT TO EXCEED TWENTY‑FOUR HOURS WITHOUT REGARD TO THE DAYS OR HOURS OF THESE SALES IS HEREBY AUTHORIZED, TO PROVIDE THAT THESE PERMITS MAY BE ISSUED TO THOSE HOLDERS OF A PERMIT TO SELL BEER AND WINE FOR OFF‑PREMISES CONSUMPTION DURING PERIODS OTHER THAN SUNDAY WHO HAVE WITHIN THE LICENSED PREMISES A SEPARATE FOOD‑SERVICE ESTABLISHMENT SERVING PREPARED FOOD FOR ON‑PREMISES CONSUMPTION, TO PROVIDE THAT THESE PERMITS MAY BE ISSUED ONLY TO QUALIFIED APPLICANTS LOCATED IN A COUNTY OR MUNICIPALITY WHICH PURSUANT TO SECTION 61‑6‑2010 HAS SUCCESSFULLY HELD A REFERENDUM ALLOWING THE POSSESSION, SALE, AND CONSUMPTION OF ALCOHOLIC LIQUORS BY THE DRINK FOR A PERIOD NOT TO EXCEED TWENTY‑FOUR HOURS, AND TO PROVIDE FOR OTHER RELATED MATTERS NECESSARY FOR THE ISSUANCE OF THESE PERMITS INCLUDING THE FEES FOR THE PERMITS AND THEIR DURATION; TO AMEND SECTION 61‑6‑2010, AS AMENDED, RELATING TO TEMPORARY PERMITS NOT TO EXCEED TWENTY‑FOUR HOURS TO ALLOW THE POSSESSION, SALE, AND CONSUMPTION OF ALCOHOLIC LIQUORS BY THE DRINK ON THE PREMISES OF AN ESTABLISHMENT OR ORGANIZATION LICENSED FOR THESE SALES, SO AS TO PROVIDE THAT A BUSINESS ESTABLISHMENT LOCATED WITHIN A BUILDING ON THE GROUNDS OF AN INTERNATIONAL AIRPORT IN THIS STATE WHERE THE POSSESSION, SALE, AND CONSUMPTION OF ALCOHOLIC LIQUORS BY THE DRINK IS PERMITTED ON ITS LICENSED PREMISES MAY APPLY FOR AND RECEIVE A TEMPORARY PERMIT AUTHORIZED BY THIS SECTION TO ALLOW THE POSSESSION, SALE, AND CONSUMPTION OF ALCOHOLIC LIQUORS BY THE DRINK FOR A PERIOD NOT TO EXCEED TWENTY‑FOUR HOURS ON ITS LICENSED PREMISES IF ANY COUNTY WITHIN THE TERRITORY OF THE AIRPORT DISTRICT WHICH OPERATES THE INTERNATIONAL AIRPORT OR ANY MUNICIPALITY LOCATED WITHIN THE TERRITORY OF THE DISTRICT HAS APPROVED, BY REFERENDUM, THE ISSUANCE OF THESE TEMPORARY PERMITS; TO AMEND SECTION 61‑4‑550, AS AMENDED, RELATING TO SPECIAL PERMITS FOR THE SALE OF BEER AND WINE, SO AS TO REMOVE SPECIFIC REFERENCES TO NONPROFIT ORGANIZATIONS WHICH LIMIT THE ISSUANCE OF THESE SPECIAL PERMITS TO NONPROFIT ORGANIZATIONS, AND FURTHER PROVIDE FOR THE CONDITIONS AND REQUIREMENTS NECESSARY FOR THE ISSUANCE OF THESE SPECIAL PERMITS; TO AMEND SECTION 61‑6‑2000, AS AMENDED, RELATING TO TEMPORARY LICENSES TO NONPROFIT ORGANIZATIONS TO PURCHASE AND SELL AT A SINGLE OCCASION ALCOHOLIC LIQUORS BY THE DRINK, SO AS TO REVISE THE PROCEDURES AND REQUIREMENTS FOR THE ISSUANCE OF THESE TEMPORARY LICENSES; AND BY ADDING SECTION 61‑4‑630 SO AS TO PROVIDE THAT AN ESTABLISHMENT POSSESSING A BEER AND WINE PERMIT THAT IS LOCATED IN A COUNTY OR MUNICIPALITY THAT HAS CONDUCTED A FAVORABLE REFERENDUM ALLOWING THE SALE AND CONSUMPTION OF ALCOHOLIC LIQUORS BY THE DRINK ON SUNDAY UNDER THE PROVISIONS OF SECTION 61‑6‑2010, DURING THOSE SAME HOURS AUTHORIZED BY PERMITS ISSUED UNDER SECTION 61‑6‑2010, MAY SELL, POSSESS, AND PERMIT THE CONSUMPTION OF BEER AND WINE ON THE PREMISES.**

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

**Definition added**

SECTION 1. Section 61‑6‑20 of the 1976 Code, as last amended by Act 320 of 2008, is further amended to read:

 “Section 61‑6‑20. As used in the ABC Act, unless the context clearly requires otherwise:

 (1)(a) ‘Alcoholic liquors’ or ‘alcoholic beverages’ means any spirituous malt, vinous, fermented, brewed (whether lager or rice beer), or other liquors or a compound or mixture of them by whatever name called or known which contains alcohol and is used as a beverage, but does not include:

 (i) wine when manufactured or made for home consumption and which is not sold by the maker of the wine or by another person; or

 (ii) a beverage declared by statute to be nonalcoholic or nonintoxicating.

 (b) ‘Alcoholic liquor by the drink’ or ‘alcoholic beverage by the drink’ means a drink poured from a container of alcoholic liquor, without regard to the size of the container for consumption on the premises of a business licensed pursuant to Article 5 of this chapter.

 (2) ‘Bona fide engaged primarily and substantially in the preparation and serving of meals’ means a business that provides facilities for seating not fewer than forty persons simultaneously at tables for the service of meals and that:

 (a) is equipped with a kitchen that is utilized for the cooking, preparation, and serving of meals upon customer request at normal meal times;

 (b) has readily available to its guests and patrons either menus with the listings of various meals offered for service or a listing of available meals and foods, posted in a conspicuous place readily discernible by the guest or patrons; and

 (c) prepares for service to customers, upon the demand of the customer, hot meals at least once each day the business establishment chooses to be open.

 (3) ‘Homeowners association chartered as a nonprofit by the Secretary of State’ means an organization that has been recognized as a nonprofit by the Secretary of State, whose membership is limited to individuals who own property in the residential community, and whose affairs are governed by a board of directors elected by the membership. No member, officer, agent, or employee of the association may be paid a salary or other form of compensation from any of the profit of the sale of alcoholic beverages, except as may be voted on at a meeting of the governing body, nor shall the salaries or compensation be in excess of reasonable compensation for the services actually performed. Additionally, a ‘homeowners association chartered as a nonprofit by the Secretary of State’ must abide by all alcoholic liquor regulations that apply to a nonprofit organization, as defined by Section 61‑6‑20(7), except that upon dissolution of the ‘homeowners association chartered as a nonprofit by the Secretary of State’, the remaining assets, if any, may be distributed to its members. A ‘homeowners association chartered as a nonprofit by the Secretary of State’ is eligible to be licensed under this chapter only at facilities located within the boundaries of the homeowners association.

 (4) ‘Manufacturer’ means a person operating a plant or place of business in this State for distilling, rectifying, brewing, fermenting, blending, or bottling alcoholic liquors.

 (5) ‘Furnishing lodging’ means those businesses which rent accommodations for lodging to the public on a regular basis consisting of not less than twenty rooms.

 (6) ‘Minibottle’ means a sealed container of fifty milliliters or less of alcoholic liquor.

 (7) ‘Nonprofit organization’ means an organization not open to the general public, but with a limited membership and established for social, benevolent, patriotic, recreational, or fraternal purposes.

 (8) ‘Producer’, as used in the ABC Act, means a manufacturer, distiller, rectifier, blender, or bottler of alcoholic liquors and includes an importer of alcoholic liquors engaged in importing alcoholic liquors into the United States.

 (9) ‘Producer representative’ means a person who is a citizen of this State, who maintains his principal place of abode in this State, and who is registered with the department pursuant to Article 7 of this chapter as the South Carolina representative of a registered producer.

 (10) ‘Registered producer’ means a producer who is registered with the department pursuant to Article 7 of this chapter.

 (11) ‘Retail dealer’ means a holder of a license issued under the provisions of Article 3 of this chapter, other than a manufacturer or wholesaler.

 (12) ‘Wholesaler’ means a person who purchases, acquires, or imports from outside this State or who purchases or acquires from a manufacturer in the State alcoholic liquors for resale.”

**Homeowners association may apply**

SECTION 2. Section 61‑6‑1820(1) of the 1976 Code is amended to read:

 “(1) The applicant is a bona fide nonprofit organization, a homeowners association chartered as a nonprofit organization by the Secretary of State, or the applicant conducts a business bona fide engaged primarily and substantially in the preparation and serving of meals or furnishing of lodging.”

**Temporary permits for separate food‑service establishments**

SECTION 3. Subarticle 5, Article 5, Chapter 6, Title 61 of the 1976 Code is amended by adding:

 “Section 61‑6‑2015. (A) A temporary permit to sell beer and wine for on‑premises consumption for a period not to exceed twenty‑four hours without regard to the days or hours of these sales is hereby authorized. This permit may be issued by the department for the same fees provided in Section 61‑4‑500 for a retail beer and wine permit, including an application fee. This permit shall be considered a biennial temporary permit, and may be issued to those holders of a permit to sell beer and wine for off‑premises consumption during periods other than Sunday who have within the licensed premises a separate food service establishment serving prepared food for on‑premises consumption. The permit to sell beer and wine for on‑premises consumption during the twenty‑four hour period shall apply only to this separate food-service establishment.

 (B) The department may require such proof of qualifications for the issuance of these permits as it considers necessary, and these permits may be issued only to qualified applicants located in a county or municipality which pursuant to Section 61‑6‑2010 has successfully held a referendum allowing the possession, sale, and consumption of alcoholic liquors by the drink for a period not to exceed twenty‑four hours.”

**Temporary permits for establishments located at international airports**

SECTION 4. Section 61‑6‑2010 of the 1976 Code, as last amended by Act 353 of 2008, is further amended by adding:

 “(G) A business establishment located within a building on the grounds of an international airport in this State where the possession, sale, and consumption of alcoholic liquors by the drink is permitted on its licensed premises may apply for and receive a temporary permit authorized by this section, notwithstanding any other requirements of this section to the contrary, to allow the possession, sale, and consumption of alcoholic liquors by the drink for a period not to exceed twenty‑four hours on its licensed premises if any county within the territory of the airport district which operates the international airport or any municipality located within the territory of the district has approved, by referendum, the issuance of these temporary permits.”

**Temporary permit and temporary license criteria revised**

SECTION 5. A. Section 61‑4‑550 of the 1976 Code, as last amended by Act 259 of 2010, is further amended to read:

 “Section 61‑4‑550. (A) The department may issue permits running for a period not exceeding fifteen days for a fee of ten dollars per day. These special permits may be issued only for locations at fairs and special functions.

 (B) The department shall require the applicant to obtain a criminal records check conducted by the State Law Enforcement Division within ninety days prior to an application. The department shall deny the application if the criminal records check is not submitted with the application and filing fee or if it was obtained more than ninety days before.

 (C) The department shall require the applicant to complete the law enforcement notification provision contained in an application form and submit it with the application. The law enforcement notification provision shall be prepared by the department for inclusion in the application and, at a minimum, must contain sufficient information to inform the department that either the chief of police, if the event is located within the city limits, or the county sheriff has been notified of the temporary permit application and given an opportunity to object.

 (D) The department may issue up to twenty‑five temporary permits to sell beer and wine on one application for special functions in a twelve‑month period to the same applicant, if that applicant is also applying for up to twenty‑five temporary licenses to sell alcoholic liquors by the drink, pursuant to Section 61‑6‑2000(D). This does not prohibit the applicant from applying for additional special permits within the same twelve‑month period.”

B. Section 61‑6‑2000 of the 1976 Code, as last amended by Act 259 of 2010, is further amended to read:

 “Section 61‑6‑2000. (A) In addition to the licenses authorized pursuant to the provisions of subarticle 1 of this article, the department also may issue a temporary license to a nonprofit organization, as defined in Section 61‑6‑20, which authorizes that nonprofit organization to purchase and to sell alcoholic liquors by the drink for a period not to exceed twenty‑four hours at a single social occasion. The nonprofit organization may sell tickets for the social occasion to nonmembers. Notwithstanding another provision of this article, the issuance of this license authorizes the nonprofit organization to purchase alcoholic liquors from licensed retail dealers in the same manner that a person with a biennial license issued pursuant to subarticle 1 of this article purchases its alcoholic liquors. The department shall charge a nonrefundable filing fee of thirty‑five dollars for processing each event on the application. The temporary license application must include a statement by the applicant as to the nature and date of the special function at which the alcoholic liquors are to be sold. The department in its discretion may specify the terms and conditions of the license, pursuant to existing statutes and regulations governing these applications.

 (B) The department shall require the applicant to obtain a criminal background check conducted by the State Law Enforcement Division within ninety days prior to an application. The department shall deny the application if the criminal records check is not submitted with the application and filing fee or if it was obtained more than ninety days before.

 (C) The department shall require the applicant to complete the law enforcement notification contained in an application form and submit it with the application. The law enforcement notification provision shall be prepared by the department for inclusion in the application and, at a minimum, must contain sufficient information to inform the department that either the chief of police, if the event is located within the city limits, or the county sheriff has been notified of the temporary license application and given an opportunity to object.

 (D) The department may issue up to twenty‑five temporary licenses on one application for special functions in a twelve‑month period to the same nonprofit organization. This does not prohibit the nonprofit organization from applying for additional temporary licenses within the same twelve‑month period.”

C. Notwithstanding the general effective date of this act, this section takes effect on July 1, 2011.

**Sunday beer and wine sales and consumption at certain establishments**

SECTION 6. Article 5, Chapter 4, Title 61 of the 1976 Code is amended by adding:

 “Section 61‑4‑630. Notwithstanding any other provision of law, an establishment possessing a beer and wine permit that is located in a county or municipality that has conducted a favorable referendum allowing the sale and consumption of alcoholic liquors by the drink on Sunday under the provisions of Section 61‑6‑2010, during those same hours authorized by permits issued under Section 61‑6‑2010, may sell, possess, and permit the consumption of beer and wine on the premises.”

**Time effective**

SECTION 7. This act takes effect upon approval by the Governor.

Ratified the 16th day of June, 2011.

Approved the 17th day of June, 2011.

\_\_\_\_\_\_\_\_\_\_