~~Indicates Matter Stricken~~

Indicates New Matter

POLLED OUT OF COMMITTEE

MAJORITY FAVORABLE WITH AMENDMENT

May 11, 2011

**H. 3295**

Introduced by Rep. Herbkersman

S. Printed 5/11/11--S.

Read the first time February 2, 2011.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3295) to amend Section 61‑6‑1820, Code of Laws of South Carolina, 1976, relating to the criteria for a nonprofit organization to obtain a license to sell alcoholic, etc., respectfully

**REPORT:**

Has polled the Bill out with amendment, to wit:

Amend the bill, as and if amended, by striking all after the enacting language and inserting the following:

/ SECTION 1. Section 61-6-20 of the 1976 Code, as last amended by Act No. 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 and 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.

(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.

~~(4)~~(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.

~~(5)~~(6) ‘Minibottle’ means a sealed container of fifty milliliters or less of alcoholic liquor.

~~(6)~~(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.

~~(7)~~(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.

~~(8)~~(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.

~~(9)~~(10) ‘Registered producer’ means a producer who is registered with the department pursuant to Article 7 of this chapter.

~~(10)~~(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.

~~(11)~~(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.”

SECTION 2. Section 61-6-1820(1) of the 1976 Code, as last amended by Act No. 70 of 2003, is further amended to read:

“(1) The applicant is a bona fide nonprofit organization, a homeowner’s 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.”

SECTION 3. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

**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 indicates enactment of this bill would have no impact on the agency’s expenditures.

**SPECIAL NOTES:**

The Board of Economic Advisors is the appropriate entity to address any revenue impact associated with this or any other bill.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND SECTION 61‑6‑1820, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CRITERIA FOR A NONPROFIT ORGANIZATION TO OBTAIN A LICENSE TO SELL ALCOHOLIC LIQUORS BY THE DRINK, SO AS TO PROVIDE THAT UNDER CERTAIN CONDITIONS A HOMEOWNER’S ASSOCIATION, CHARTERED AS A NONPROFIT ORGANIZATION 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, IS ALSO ELIGIBLE FOR SUCH A LICENSE.

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

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

“(1) The applicant is a bona fide nonprofit organization or the applicant conducts a business bona fide engaged primarily and substantially in the preparation and serving of meals or furnishing of lodging. A homeowner’s association, chartered as a nonprofit organization 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, is eligible for a license under this section. 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. Upon dissolution of the homeowner’s association, the remaining assets, if any, may be distributed to its members.”

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

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