**South Carolina General Assembly**

124th Session, 2021-2022

**H. 3769**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Stavrinakis, G.M. Smith, W. Cox, Ott, Elliott, W. Newton, Erickson, Wheeler, Gilliard, Ballentine, Pendarvis, Wetmore, Huggins, Cogswell, Davis, Kimmons and Bradley

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Companion/Similar bill(s): 479

Introduced in the House on January 28, 2021

Currently residing in the House Committee on **Judiciary**

Summary: Micro-distillery Parity Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/28/2021 House Introduced and read first time ([House Journal‑page 32](file:///h:\hj\20210128.docx))

1/28/2021 House Referred to Committee on **Judiciary** ([House Journal‑page 32](file:///h:\hj\20210128.docx))

2/3/2021 House Member(s) request name added as sponsor: Cogswell

2/18/2021 House Member(s) request name added as sponsor: Davis, Kimmons

3/17/2021 House Member(s) request name added as sponsor: Bradley

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**VERSIONS OF THIS BILL**

[1/28/2021](file:///p:\pprever\2021-22\3769_20210128.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “MICRO‑DISTILLERY PARITY ACT” BY ADDING SECTION 61‑6‑1155 SO AS TO PROVIDE THAT A LICENSED MICRO‑DISTILLERY MAY OPERATE A MICRO‑DISTILLERY FOOD ESTABLISHMENT ON ITS PREMISES AND ESTABLISH REQUIREMENTS FOR SUCH A FOOD ESTABLISHMENT; AND TO AMEND SECTIONS 61‑6‑1140 AND 61‑6‑1150, BOTH RELATING TO A MICRO‑DISTILLERY’S TASTINGS AND RETAIL SALES, SO AS TO REMOVE THE REQUIREMENT THAT TASTINGS AND SALES BE HELD IN CONJUNCTION WITH A TOUR, TO MODIFY QUANTITY AND TIME LIMITS FOR THE SALE OF ALCOHOLIC LIQUORS, TO REMOVE A LIMITATION ON THE SALE OF MIXERS, TO PROVIDE THAT OTHER BRANDS OF ALCOHOLIC LIQUORS MAY BE SOLD AT A MICRO‑DISTILLERY FOOD ESTABLISHMENT, TO REMOVE LIMITATIONS ON SELLING OR STORING GOODS, WARES, OR MERCHANDISE IN THE SAME ROOM AS TASTINGS OR SALES OF ALCOHOLIC LIQUORS, TO PROVIDE THAT A MINOR MUST BE ACCOMPANIED BY AN ADULT IN A MICRO‑DISTILLERY FOOD ESTABLISHMENT, AND TO MAKE CONFORMING CHANGES.

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

SECTION 1. This act must be known and may be cited as the “Micro‑distillery Parity Act”.

SECTION 2. Subarticle 11, Article 3, Chapter 6, Title 61 of the 1976 Code is amended by adding:

“Section 61‑6‑1155. (A) (1) In addition to alcoholic liquor production or manufacturing, a licensed micro‑distillery may operate a micro‑distillery food establishment on its premises. The micro‑distillery food establishment must be physically partitioned from the distilling production or manufacturing area.

(2) In a micro‑distillery food establishment, a micro‑distillery may:

(a) hold tastings as provided in Section 61‑6‑1140(1);

(b) sell bottles of alcoholic liquor produced on the premises as provided in Section 61‑6‑1150(4);

(c) sell items promoting the brand or brands of alcoholic liquors produced on the premises as provided in Section 61‑6‑1150(7);

(d) serve meals to patrons, if the micro‑distillery is licensed by the Department of Health and Environmental Control pursuant to the department’s regulations governing eating and drinking establishments and other food service establishments, as applicable;

(e) serve alcoholic liquor by the drink to patrons, if the micro‑distillery first obtains the proper permits or licenses; and

(f) serve wine, beer, or both to patrons for on‑premises consumption, if the micro‑distillery first obtains the proper permits or licenses.

(3) If a micro‑distillery intends to serve liquor by the drink, then the micro‑distillery food establishment must be designed for the purpose of engaging substantially and primarily in the serving of meals.

(4) Bottles of alcoholic liquor sold pursuant to item 2(b) of this subsection may not be considered in making a determination as to whether a micro‑distillery’s tasting room is designed for the purpose of engaging substantially and primarily in the serving of meals.

(B) A micro‑distillery food establishment must:

(1) maintain compliance with all provisions of the laws and regulations related to the micro‑distillery food establishment’s licenses and permits to sell food and to offer retail, on‑premises consumption of alcoholic liquor by the drink, beer, and wine to patrons;

(2) not sell or allow the consumption of alcoholic liquor by the drink, beer, or wine outside of the space on the micro‑distillery’s premises that is designated for the micro‑distillery food establishment;

(3) maintain the books, records, and bank accounts of the micro‑distillery food establishment separate from the books, records, and bank accounts of the micro‑distillery, and allocate expenses common to both the micro‑distillery food establishment and the micro‑distillery in a manner the micro‑distillery considers reasonable;

(4) maintain liability insurance pursuant to Section 61‑2‑145;

(5) provide department or DAODAS‑approved alcohol enforcement training for employees who serve alcoholic liquor by the drink on the licensed premises to consumers for consumption in the micro‑distillery food establishment, so as to prevent and prohibit the unlawful sale, transfer, transport, or consumption of alcoholic liquor by persons who are under the age of twenty‑one or who are intoxicated; and

(6) maintain a physical partition between the micro‑distillery food establishment and the distillery production or manufacturing area. The physical partition may be a permanent wall or a divider permanently affixed to the premises in a manner that the general public may not freely enter the micro‑distillery production or manufacturing operation, and it may contain a door that remains locked during the hours the micro‑distillery is not in operation.

(C) The micro‑distillery’s sale of alcoholic liquors by the drink for on‑premises consumption at the micro‑distillery food establishment must:

(1) comply with all state and local laws concerning the hours of operation applicable to eating and drinking establishments and other food service establishments holding permits to sell liquor by the drink and beer and wine for on‑premises consumption;

(2) comply with all provisions of Section 61‑6‑1610 and all other provisions of this chapter regulating the purchase and sale of alcoholic liquor by the drink by food establishments for on‑premises consumption not inconsistent with the provisions of this section; and

(3) be sold at a price approximating retail prices generally charged for identical beverages by on‑premises retailers in the county where the micro‑distillery food establishment is located.

(D) A micro‑distillery’s production and manufacturing facilities are not subject to the same hours of operation as its micro‑distillery food establishment.”

SECTION 3. Sections 61‑6‑1140 and 61‑6‑1150 of the 1976 Code are amended to read:

“Section 61‑6‑1140. A holder of a valid micro‑distillery or manufacturer license issued by the State may permit tastings and retail sales of the alcoholic liquors produced at the licensed premises subject to the following limitations and any other limitations provided in this subarticle:

(1) tastings by ~~and sales to~~ consumers must be held in ~~conjunction with a tour by the consumer of the on‑site licensed premises~~ a micro‑distillery food establishment or tasting room;

(2) the micro‑distillery or manufacturer shall establish appropriate protocols to ensure that a consumer sold or served alcoholic liquors pursuant to this section is not under twenty‑one years of age and that a consumer shall not attend more than one tasting in a day;

(3) the micro‑distillery or manufacturer may not dispense more than ~~three~~ four and one half ounces of alcoholic liquors distilled at the permitted premises to an individual consumer in one day;

(4) ~~tastings and~~ sales of bottles pursuant to Section 61‑6‑1155(A)(2)(b) may occur only between the hours of nine a.m. and seven p.m., Monday through Saturday;

(5) the micro‑distillery or manufacturer may charge for alcoholic liquors consumed at a tasting, but must collect and remit the liquor by the drink excise tax pursuant to the provisions of Chapter 33, Title 12;

(6) the micro‑distillery or manufacturer may provide mixers, which must be nonalcoholic and carry zero percent of alcohol by weight, in conjunction with the tasting~~, but the micro‑distillery or manufacturer may not charge for the mixers~~; and

(7) ~~tastings may not occur in conjunction with the service of food in a restaurant setting; and~~

~~(8)~~ only brands of alcoholic liquors actually manufactured, distilled, or fermented at and distributed to wholesalers from the licensed premises may be sold ~~or offered for tasting~~ at retail, provided that other brands of alcoholic liquors may be sold for on‑premises consumption in a micro‑distillery food establishment pursuant to a liquor by the drink license.

Section 61‑6‑1150. Authorization by this section of sales and tastings at licensed premises of a micro‑distillery or manufacturer is expressly intended for the promotion of education regarding production of alcoholic liquors in the State and not to create competition between producers and retailers. A holder of a valid micro‑distillery or manufacturer license issued by the State may:

(1) sell in any quantities the alcoholic liquors produced at the licensed premises to a wholesaler licensed by the State;

(2) transport in any quantities the alcoholic liquors produced at the licensed premises out of state for sale outside of the State;

(3) sell at retail at the licensed premises the alcoholic liquors produced at the licensed premises, but only if the labels for the bottles are marked ‘not for resale’;

(4) sell at retail no more than the equivalent of ~~three~~ ~~750‑milliliter bottles~~ nine liters of alcoholic liquors to a consumer in one business day;

(5) not allow consumption on the licensed premises of alcoholic liquors sold by the bottle at the licensed premises;

(6) maintain pricing of the alcoholic liquors sold at the licensed premises at a price approximating retail prices generally charged for identical alcoholic liquors in the county where the on‑site premises is located;

(7) in addition to the sale of alcoholic liquors as authorized by this section, sell items promoting the brand or brands of alcoholic liquors produced on the premises ~~at that location in a room on the licensed premises separate from the locations of the tastings~~;

(8) ~~not sell or store goods, wares, or merchandise in or from the room in which alcoholic liquors are sold or tasted~~;

~~(9)~~ store mixers used, but not sold, in conjunction with tastings; and

~~(10)~~(9) not allow minors into the food establishment portion of the facility where tastings are occurring unless accompanied by an adult.”

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

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