**South Carolina General Assembly**

125th Session, 2023-2024

**A31, R38, S566**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Bennett, K. Johnson, M. Johnson, Hutto, Adams, Kimpson, Fanning, Kimbrell, Climer, Cromer, McElveen, Talley, Davis, Malloy and Grooms

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Introduced in the Senate on February 23, 2023

Introduced in the House on April 5, 2023

Last Amended on March 30, 2023

Currently residing in the Senate

Summary: South Carolina Craft Beer Economic Development Act

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/23/2023 Senate Introduced and read first time (Senate Journal‑page 3)

 2/23/2023 Senate Referred to Committee on **Judiciary** (Senate Journal‑page 3)

 3/17/2023 Senate Referred to Subcommittee: Talley (ch), Hutto,
 Malloy, Matthews, Climer, Senn, M.Johnson

 3/29/2023 Senate Committee report: Favorable with amendment **Judiciary**

 3/30/2023 Senate Committee Amendment Adopted (Senate Journal‑page 40)

 3/30/2023 Senate Read second time (Senate Journal‑page 40)

 3/30/2023 Senate Roll call Ayes-40 Nays-1 (Senate Journal‑page 40)

 3/30/2023 Senate Unanimous consent for third reading on next legislative day (Senate Journal‑page 40)

 3/31/2023 Scrivener's error corrected

 4/4/2023 Scrivener's error corrected

 4/5/2023 Scrivener's error corrected

 4/5/2023 House Introduced and read first time

 4/5/2023 House Referred to Committee on **Judiciary**

 5/3/2023 House Committee report: Favorable **Judiciary** (House Journal‑page 89)

 5/4/2023 House Read second time (House Journal‑page 86)

 5/4/2023 House Roll call Yeas-103 Nays-0 (House Journal‑page 86)

 5/4/2023 House Unanimous consent for third reading on next legislative day (House Journal‑page 88)

 5/5/2023 House Read third time and enrolled (House Journal‑page 8)

 5/11/2023 Ratified R 38

 5/16/2023 Signed By Governor

 5/25/2023 Effective date 05/16/23

 5/25/2023 Act No. 31

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**VERSIONS OF THIS BILL**

[02/23/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/566_20230223.docx)

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(A31, R38, S566)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "SOUTH CAROLINA CRAFT BEER ECONOMIC DEVELOPMENT ACT"; BY AMENDING SECTION 61-4-1515, RELATING TO THE SALE OF BEER BY BREWERIES, SO AS TO PROVIDE THAT CERTAIN BEER SOLD FOR ON-PREMISES CONSUMPTION MUST BE PRODUCED BY THE BREWERY ON ITS PERMITTED PREMISES OR TRANSFERRED TO THE BREWERY AND TO DELETE THE CONDITION THAT SALES TO CONSUMERS MUST BE HELD IN CONJUNCTION WITH A TOUR.

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

Citation

SECTION 1. This act may be cited as the “South Carolina Craft Beer Economic Development Act”.

South Carolina Craft Beer Economic Development Act

SECTION 2. Section 61‑4‑1515 of the S.C. Code is amended to read:

 Section 61‑4‑1515. (A) A brewery permitted in this State is authorized to sell beer to consumers on its permitted premises with an alcoholic content of twelve percent by weight, or less, subject to the following conditions:

 (1) beer sold for on-premises consumption must be produced by the brewery on its permitted premises or transferred to the brewery, subject to the following conditions: (a) the transferring and receiving breweries operate under one hundred percent identical ownership, and (b) the annual volume of beer received by a brewery does not exceed the annual volume of beer produced by such brewery on its permitted premises;

 (2) sales to consumers must be held in conjunction with a tour by the consumer of the permitted premises and the entire brewing process utilized at the permitted premises;

 (3) sales shall not be offered or made to, or allowed to be offered, made to, or consumed by an intoxicated person or a person who is under the age of twenty‑one;

 (4)(a) no more than a total of forty‑eight ounces of beer brewed at or transferred to the permitted premises shall be sold to a consumer for on‑premises consumption within a twenty‑four hour period; and

 (b) of that forty‑eight ounces of beer available to be sold to a consumer within a twenty‑four hour period, no more than sixteen ounces of beer with an alcoholic weight of above eight percent, including any samples offered and consumed with or without cost, shall be sold to a consumer for on‑premises consumption within a twenty‑four hour period;

 (5) a brewery must report in a manner required by the department the amounts, types, and brewing locations of beer sampled or sold to a consumer for on‑premises consumption;

 (6) a brewery must sell the beer at the permitted premises at a price approximating retail prices generally charged for identical beverages in the county where the permitted premises are located;

 (7) a brewery must remit appropriate taxes to the Department of Revenue for beer sales in an amount equal to and in a manner required for excise taxes assessed by the department. A brewery also must remit appropriate sales and use taxes and local hospitality taxes;

 (8) a brewery must post information that states the alcoholic content by weight of the various types of beer available in the brewery and the penalties for convictions for:

 (a) driving under the influence;

 (b) unlawful transport of an alcoholic container; and

 (c) unlawful transfer of alcohol to minors.

 And, the information shall be in signage that must be posted at each entrance, each exit, and in places in a brewery seen during a tour;

 (9) a brewery must provide department or DAODAS approved alcohol enforcement training for the employees who serve beer on the permitted premises to consumers for on‑premises consumption, so as to prevent and prohibit unlawful sales, transfer, transport, or consumption of beer by persons who are under the age of twenty‑one or who are intoxicated; and

 (10) a brewery must maintain a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement in the amount of at least one million dollars for the biennial period for which it is permitted. Within ten days of receiving its biennial permit, a brewery must send proof of this insurance to the State Law Enforcement Division and to the Department of Revenue, where the proof of insurance information shall be retained with the department's alcohol beverage licensing section.

 (B)(1) In addition to the sales provisions set forth in subsection (A) and subject to this subsection (B), a brewery permitted in this State is authorized to sell beer to consumers on‑site for on‑premises consumption within an area of its permitted and licensed premises approved by the rules and regulations of the Department of Health and Environmental Control governing eating and drinking establishments and other food service establishments. These establishments also may apply for a retail on‑premises consumption permit for the sale of beer and wine that has been purchased from a wholesaler through the three‑tier distribution chain set forth in Section 61‑4‑735 and Section 61‑4‑940.

 (2) In addition to a retail on‑premises consumption permit for the sale of beer and wine as authorized in this subsection, a brewery that has a Department of Health and Environmental Control approved and licensed food establishment on its premises as provided in subsection (B)(1) may apply for a license to sell alcoholic liquor by the drink for on‑premises consumption within a specified area of its licensed or permitted premises physically partitioned from the brewing operation and designated for the purpose of engaging substantially and primarily in the preparation and serving of meals. The brewery must:

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

 (b) not sell or allow the consumption of alcoholic liquor by the drink on that part of the brewery's premises designated and permitted for the brewing operation;

 (c) maintain the books, records, and bank accounts of the restaurant operation separately from the books, records, and bank accounts of the brewing operation, and allocate expenses common to both operations in a manner the brewery considers reasonable, when applicable; and

 (d) maintain a physical partition between the brewing and food establishment operations. 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 brewing operation, and may contain a door or doors which remain locked during hours when the brewery is not in operation.

 (C) The department shall terminate and a brewery shall surrender each permit and license issued to the brewery pursuant to subsection (B) immediately following inspection, determination, and report by the division to the department that brewing operations have ceased on the brewery's permitted premises. This includes the food establishment permits and licenses. Following reinstitution of brewing operations on the formerly permitted premises, a brewery may re‑apply for the applicable permits and licenses authorized by subsection (B).

 (D) The sale of beer for on‑premises consumption pursuant to subsection (B) must comply with the following provisions:

 (1) all provisions of subsection (A) shall apply to sales under subsection (B) and this subsection, except subsection (A)(2), (4), and (5);

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

 (3) the brewery must comply with the discount pricing provisions of Section 61‑4‑160, applicable to persons holding permits to sell beer and wine for on‑premises consumption;

 (4) the brewery must sell the beer at a price approximating retail prices generally charged for identical beverages by on‑premises retailers in the county where the licensed premises are located; and

 (5) a wholesaler must not provide and a brewery must not accept services, equipment, fixtures, or free beer prohibited by Section 61‑4‑940(B), except those items authorized by Section 61‑4‑940(C). Changes to the brewery laws pursuant to subsection (B) and this subsection do not alter or amend the structure of the three‑tier laws of this State, and the wholesalers and the breweries must not discriminate in pricing at the producer or wholesaler levels.

 (E) A brewery located in this State is authorized to sell beer to consumers on its permitted premises for off‑premises consumption, provided that the sealed beer was brewed on the brewery's permitted premises or received pursuant to subsection (A) with an alcohol content of fourteen percent by weight or less, subject to the following conditions:

 (1) the maximum amount of beer that may be sold to an individual per day for off‑premises consumption shall be equivalent to eight hundred sixty-four ounces in total;

 (2) the beer only shall be sold in conjunction with a tour by the consumer of the permitted premises and the entire brewing process utilized at the permitted premises;

 (3) the beer sold is for personal use only and must not be resold;

 (4) the beer must not 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 permitted premises at a price approximating retail prices generally charged for identical beverages in the county where the permitted premises are located;

 (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 also must remit appropriate sales and use taxes and local hospitality taxes; and

 (7) beer sold in kegs must comply with the requirements of Article 19, entitled “Keg Registration”.

 (F) A brewery must report monthly in a manner required by the department the amounts and brands of beer present on its licensed premises at the month’s beginning, brewed on its licensed premises, transferred to and received from a separate licensed brewery under identical ownership, sold to wholesalers for resale, sold to consumers for off‑premises consumption, sold to consumers for on-premises consumption, lost to spillage and spoilage, removed for owner consumption, and present on its licensed premises at the month’s end.

 (G) A brewpub permitted pursuant to Article 17, which is a retailer for purposes of Sections 61‑4‑735(D) and 61‑4‑940(D), may make application to the department for a brewery permit and the permits and licenses authorized pursuant to subsection (B) for the brewpub's existing permitted premises. For these applications, the department shall waive newspaper notice and sign posting requirements, except the requirements shall not be waived for an alcoholic liquor by the drink application if the brewpub does not possess this license at the time of application. Excluding operations authorized pursuant to subsection (B), the department must not approve an application if the applicant or any principal or person acting directly or indirectly on behalf of the applicant would have ownership or financial interest in a wholesale or retail beer, wine, or alcoholic liquor operation following the issuance of the brewery permit. Contemporaneous with obtaining the brewery and applicable permits or licenses authorized pursuant to subsection (B), the applicant shall surrender the brewpub permit and the alcoholic liquor by the drink license previously issued for the premises.

 (H) In addition to other applicable fines or penalties, a person permitted as a brewery in this State who violates the provisions of this section must be assessed a fine of five hundred dollars for a first violation. For a second violation that occurs within three years of the first violation, a person must be assessed an additional five hundred dollars. For subsequent violations within a three‑year period, the department must suspend the brewery permit for a period of not less than thirty days. The revenue from the fines established in this section must be directed to the State Law Enforcement Division for supplementing funds required for the regulation and enforcement of this section.

Time effective

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

Ratified the 11th day of May, 2023.

Approved the 16th day of May, 2023.

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