COMMITTEE REPORT

March 24, 2010

**H. 3693**

Introduced by Reps. Herbkersman, Erickson, G.M. Smith, Merrill and Long

S. Printed 3/24/10--H.

Read the first time March 10, 2009.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3693) to amend the Code of Laws of South Carolina, 1976, by adding Article 18 to Chapter 4, Title 61 so as to define the terms “microbrewery” and “licensed premises”, 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, by striking all after the enacting words and inserting:

/ SECTION 1. 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 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 18 TO CHAPTER 4, TITLE 61 SO AS TO DEFINE THE TERMS “MICROBREWERY” AND “LICENSED PREMISES”; TO ALLOW A MICROBREWERY OR MANUFACTURER TO CONDUCT BEER SAMPLINGS OR TASTINGS UNDER CERTAIN CONDITIONS; AND TO PROVIDE FOR THE PAYMENT OF APPROPRIATE TAXES.

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

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

“Article 18

Microbreweries

Section 61‑4‑1810. For the purposes of this article:

(1) ‘Microbrewery’ means a manufacturer who produces beer on the licensed premises in this State with an annual maximum production capacity of fifteen thousand barrels per year at the licensed premises.

(2) ‘Licensed premises’ means a location where the microbrewery or manufacturer is licensed pursuant to this article for the manufacture or tasting of beer produced at the licensed location and includes those areas normally used by the licensee to conduct his business and includes the producing areas, storage areas, sampling or tasting areas, and parking lots.

Section 61‑4‑1820. Notwithstanding another provision of law, the sampling or tasting of beer conducted by a licensed microbrewery or manufacturer, is authorized if the sampling or tasting is conducted as follows:

(1) a sample may not be offered from more than four products at any one time;

(2) the sampling must be held in a designated tasting area of the microbrewery or manufacturer;

(3) samples must be less than six ounces;

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

(5) a sampling may not be offered for longer than four hours in a twenty‑four hour period;

(6) at least ten days before the sampling, a letter detailing the specific date and hours of the sampling must be mailed first class to the State Law Enforcement Division;

(7) a sample may not be offered to, or allowed to be consumed by, and intoxicated person or a person under the age of twenty‑one years. This person may not be allowed to loiter on the licensed premises of the microbrewery or manufacturer’s property; and

(8) the tastings must be conducted by the mircrobrewery or manufacturer or an agent of the microbrewery or manufacturer and may not be conducted by a wholesaler, retailer, or employee of the wholesaler or retailer.

Section 61‑4‑1830. (A) A microbrewery or manufacturer of beer in the State who conducts samplings or tastings or sale of beer for on‑premises consumption, subject to the restrictions contained in Section 61‑4‑1810, is subject to the requirements of this chapter. The mirco‑brewery or manufacturer is not required to obtain an additional manufacturing and retail license required pursuant to this title.

(B) A microbrewery or manufacturer desiring to offer sampling or tasting of beer for on‑premises consumption, as authorized pursuant to Section 61‑4‑1810, to consumers at its licensed premises, shall remit taxes to the department for beer sold in an amount equal to taxes paid by wholesalers for the sale of beer.

(C) Beer produced on a licensed premises pursuant to this article must be taxed as provided in Chapter 33, Title 12. The microbrewery or manufacturer permittee shall maintain adequate records as determined by the department to ensure the collection of this tax.”

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

‑‑‑‑XX‑‑‑‑