~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 2, 2011

**H. 3178**

Introduced by Reps. Pitts, Limehouse, Hixon and Long

S. Printed 3/2/11--S.

Read the first time February 23, 2011.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3178) to amend Section 61‑4‑550, as amended, Code of Laws of South Carolina, 1976, relating to special permits for the sale of beer and wine, 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 the following:

/ SECTION 1. 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 ~~to nonprofit organizations~~ running for a period not exceeding fifteen days for a fee of ten dollars per day. ~~For purposes of this section, a “nonprofit organization” is an entity which is organized and operated exclusively for social, benevolent, patriotic, recreational, or fraternal purposes, and which is exempt from federal income taxes pursuant to Internal Revenue Code Section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19). It also includes political parties and their affiliates duly certified by the Secretary of State.~~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 ~~initial~~ 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. ~~For a subsequent application, the applicant is not required to obtain a new criminal records check unless:~~

~~(1)~~ ~~more than two years have elapsed since the most recent criminal records check was conducted; or~~

~~(2)~~ ~~the nonprofit organization has added or replaced a principal. For purposes of this section, all principals are deemed to be the applicant.~~

(C) ~~The department shall require the applicant to notify in writing a minimum of fifteen days prior to the first day of a fair or special function the sheriff, or sheriff’s designee, of the county in which the fair or special function is to be located. Upon request of the applicant, the sheriff may waive the fifteen day notification requirement. A timely objection within seventy‑two hours of the receipt of the notice by the sheriff, or his official designee, submitted in writing to the department is sufficient grounds to deny the application.~~ 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) ~~Organizations granted permits pursuant to this section are subject to penalties imposed pursuant to violations of Article 1, Chapter 4, Title 61.~~ 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.”

SECTION 2. 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) ~~Notwithstanding another provision of this article, the department may issue to a nonprofit organization a temporary license to sell alcoholic liquor by the drink at a special function for a period not to exceed twenty‑four hours. A qualifying nonprofit organization may sell tickets at the door. The application for this temporary license must include a statement by the applicant as to the nature and date of the special function at which alcoholic liquor by the drink is to be sold, as well as other information required by the department. The department shall charge a nonrefundable filing fee of thirty‑five dollars for processing each event on the application. The department may deny the application if the completed application and filing fee are not submitted at least fifteen days before the date of the special function, but upon request by the applicant, the department may waive this requirement.~~In addition to the licenses authorized pursuant to the provisions of subarticle one of this article, the department may also 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 non-members. 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 one 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 ~~initial~~ 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. ~~For a subsequent application, the applicant is not required to obtain a new criminal records check unless:~~

~~(1)~~ ~~more than two years have elapsed since the most recent criminal records check was conducted; or~~

~~(2)~~ ~~the nonprofit organization has added or replaced a principal. For purposes of this section, all principals are deemed to be the applicant.~~

(C) ~~The department shall require the applicant to notify in writing within fifteen days the sheriff, or the sheriff’s designee, of the county in which the special function is to be located. Upon request of the applicant, the sheriff may waive the fifteen day notification requirement. A timely objection within seventy‑two hours of receipt of the notice by the sheriff, or his official designee, submitted in writing to the department is sufficient grounds to deny the application.~~ 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.

~~(E)~~ ~~For purposes of this section, “nonprofit organization” is an entity that is organized and operated exclusively for social, benevolent, patriotic, recreational, or fraternal purpose, and is exempt from federal income taxes pursuant to Internal Revenue Code Section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19). It also includes a political party or affiliate of a political party duly certified by the Secretary of State.~~

~~(F)~~ ~~Organizations granted permits pursuant to this section are subject to penalties imposed pursuant to violations of Article 13, Chapter 6, Title 61.~~”

SECTION 3. This act takes effect on July 1, 2011. /

Renumber sections to conform.

Amend title to conform.

GEORGE E. CAMPSEN III for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

Minimal (Some additional costs expected but can be absorbed)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

Department of Revenue

The department reports that this bill would have a minimal impact to the agency due to the design of new forms.

**SPECIAL NOTES:**

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

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND SECTION 61‑4‑550, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SPECIAL PERMITS FOR THE SALE OF BEER AND WINE, SO AS TO REMOVE SPECIFIC REFERENCES TO NONPROFIT ORGANIZATIONS.

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

SECTION 1. 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 ~~to nonprofit organizations~~ running for a period not exceeding fifteen days for a fee of ten dollars per day. ~~For purposes of this section, a ‘nonprofit organization’ is an entity which is organized and operated exclusively for social, benevolent, patriotic, recreational, or fraternal purposes, and which is exempt from federal income taxes pursuant to Internal Revenue Code Section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19). It also includes political parties and their affiliates duly certified by the Secretary of State.~~ 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 initial 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. ~~For a subsequent application, the applicant is not required to obtain a new criminal records check unless:~~

~~(1)~~ ~~more than two years have elapsed since the most recent criminal records check was conducted; or~~

~~(2)~~ ~~the nonprofit organization has added or replaced a principal. For purposes of this section, all principals are deemed to be the applicant.~~

(C) ~~The department shall require the applicant to notify in writing a minimum of fifteen days prior to the first day of a fair or special function the sheriff, or sheriff’s designee, of the county in which the fair or special function is to be located. Upon request of the applicant, the sheriff may waive the fifteen day notification requirement. A timely objection within seventy‑two hours of the receipt of the notice by the sheriff, or his official designee, submitted in writing to the department is sufficient grounds to deny the application.~~ 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 local law enforcement has been notified of the temporary permit application and given an opportunity to object. The applicant must notify the sheriff or his official designee if the event is in the county or notify the chief of police or his official designee if the event is in the city. If the city does not have a chief of police, then the sheriff or his official designee must be notified.

(D) ~~Organizations granted permits pursuant to this section are subject to penalties imposed pursuant to violations of Article 1, Chapter 4, Title 61.~~ The department may issue up to twenty‑five special permits on one application for special functions in a twelve‑month period to the same applicant. This does not prohibit the applicant from applying for additional special permits within the same twelve‑month period.

SECTION 2. 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) ~~Notwithstanding another provision of this article, the department may issue to a nonprofit organization a temporary license to sell alcoholic liquor by the drink at a special function for a period not to exceed twenty‑four hours. A qualifying nonprofit organization may sell tickets at the door. The application for this temporary license must include a statement by the applicant as to the nature and date of the special function at which alcoholic liquor by the drink is to be sold, as well as other information required by the department. The department shall charge a nonrefundable filing fee of thirty‑five dollars for processing each event on the application. The department may deny the application if the completed application and filing fee are not submitted at least fifteen days before the date of the special function, but upon request by the applicant, the department may waive this requirement. The department in its discretion may specify the terms and conditions of the license, pursuant to existing statutes and regulations governing these applications.~~  In addition to the licenses authorized pursuant to the provisions of subarticle 1 of this article, the department also may issue a temporary license for a period not to exceed twenty‑four hours to a nonprofit organization, as defined by the Secretary of State, which authorizes an organization to purchase and sell at a single social occasion alcoholic liquors by the drink. Notwithstanding another provision of this article, the issuance of this permit authorizes the organization to purchase alcoholic liquors from licensed retail dealers in the same manner that a person with a biennial license is issued pursuant to the provisions of subarticle 1 of this article are authorized to make these purchases. The fee for the permit is thirty‑five dollars payable at the time of application. The permit application must include a statement by the applicant as to the nature and date of the social occasion at which the alcoholic liquors are to be sold. The issuance or nonissuance of permits authorized pursuant to the provisions of this section is within the discretion of the department.

(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 initial 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. ~~For a subsequent application, the applicant is not required to obtain a new criminal records check unless:~~

~~(1)~~ ~~more than two years have elapsed since the most recent criminal records check was conducted; or~~

~~(2)~~ ~~the nonprofit organization has added or replaced a principal. For purposes of this section, all principals are deemed to be the applicant.~~

(C) ~~The department shall require the applicant to notify in writing within fifteen days the sheriff, or the sheriff’s designee, of the county in which the special function is to be located. Upon request of the applicant, the sheriff may waive the fifteen day notification requirement. A timely objection within seventy‑two hours of receipt of the notice by the sheriff, or his official designee, submitted in writing to the department is sufficient grounds to deny the application.~~ 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 local law enforcement has been notified of the temporary permit application and given an opportunity to object. The applicant must notify the sheriff or his official designee if the event is in the county or notify the chief of police or his official designee if the event is in the city. If the city does not have a chief of police, then the sheriff or his official designee must be notified.

(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.

~~(E)~~ ~~For purposes of this section, “nonprofit organization” is an entity that is organized and operated exclusively for social, benevolent, patriotic, recreational, or fraternal purpose, and is exempt from federal income taxes pursuant to Internal Revenue Code Section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19). It also includes a political party or affiliate of a political party duly certified by the Secretary of State.~~

~~(F)~~ ~~Organizations granted permits pursuant to this section are subject to penalties imposed pursuant to violations of Article 13, Chapter 6, Title 61.~~”

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

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