~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 9, 2012

**H. 3665**

Introduced by Reps. Cooper, Pitts, Taylor, G.R. Smith, Bedingfield, White and Hixon

S. Printed 5/9/12--S. [SEC 5/11/12 4:52 PM]

Read the first time April 3, 2012.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3665) to amend the Code of Laws of South Carolina, 1976, by repealing Sections 23‑31‑130, 23‑31‑150, and 23‑31‑180, 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 Article 3, Chapter 31, Title 23 of the 1976 Code is repealed.

SECTION 2. Section 61‑6‑20 of the 1976 Code is 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’ or ‘food service establishment’ 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; and

(d) derives fifty percent or more of the business’s income from the sale of prepared foods and the serving of meals.

(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, 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. A ‘homeowners association chartered as a nonprofit by the Secretary of State’ is eligible to be licensed under this chapter only at facilities located within the boundaries of the homeowners association.

(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.

(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.

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

(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.

(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.

(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.

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

(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.

(12) ‘Tavern’ or ‘bar’ means a business that derives more than fifty percent of the business’s income from the sale of alcoholic beverages for consumption on the business’s premises.

(~~12~~13) ‘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 3. Subarticle 1, Article 5, Chapter 6 of Title 61 of the 1976 Code is amended by adding:

“Section 61‑6‑1615. (A) An establishment that applies for or is licensed for the on‑premise consumption of alcoholic beverages is required to submit to the Department of Revenue at the time of application and each year by a date set by the department an income statement that provides the percentage of income derived from the sale of prepared foods and the serving of meals and from the sale of alcoholic beverages for the previous year.

(B) This section does not apply to an establishment that posts a sign in a conspicuous place near the entrance of the establishment prohibiting the carrying of a concealable weapon upon the establishment’s premises pursuant to Section 23‑31‑220.

(C) Based on the income statement, the department shall indicate on each license or renewal whether the establishment qualifies as a food service establishment, as defined by Section 61‑6‑20(2), or a tavern or bar, as defined by Section 61‑6‑20(12).

(D) An establishment that qualifies as a tavern or bar shall post a sign in a conspicuous place near the entrance of the establishment prohibiting the carrying of a concealable weapon upon the establishment’s premises pursuant to Section 23‑31‑220.

(E) Failure to submit a statement or the submission of a false or misleading statement is grounds for denial, suspension, or revocation of a license pursuant to this chapter.

(F) The department may promulgate regulations necessary to fulfill the requirements of this section.”

SECTION 4. Section 16‑23‑465 of the 1976 Code is amended to read:

“Section 16‑23‑465. (A) In addition to the penalties provided for by Sections 16‑11‑330 and 16‑23‑460 and by Article 1 of Chapter 23 of Title 16, a person convicted of carrying a pistol or firearm into a business which sells alcoholic liquor, beer, or wine for consumption on the premises is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than three years, or both.

(B) In addition to the penalties described above, a person who violates this section while carrying a concealable weapon pursuant to Article 4, Chapter 31, Title 23~~,~~ must have his concealed weapon permit revoked.

(C) This section does not apply to a person carrying a concealable weapon pursuant to Article 4, Chapter 31, Title 23 into a food service establishment, as defined by Section 61‑6‑20(2), provided the food service establishment has not posted a sign in a conspicuous place near the entrance of the establishment prohibiting the carrying of a concealable weapon upon the establishment’s premises pursuant to Section 23‑31‑220. A person shall not consume alcoholic liquor, beer, or wine on a food service establishment’s premises while carrying a concealable weapon pursuant to Article 4, Chapter 31, Title 23.”

SECTION 5. Section 1 of this act takes effect upon approval by the Governor. Sections 2, 3, and 4 of this act take effect July 1, 2012. Prior to July 1, 2012, the Department of Revenue shall notify all establishments that apply for or are licensed for the on‑premise consumption of alcoholic beverages of the requirements of Section 3 of this act. Prior to July 1, 2012, all establishments that apply for or are licensed for the on-premise consumption of alcohol shall submit to the department an income statement as required by this act or post a sign in a conspicuous place near the entrance of the establishment prohibiting the carrying of a concealable weapon upon the establishment’s premises pursuant to Section 23‑31‑220. /

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:

$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 State Law Enforcement states that this bill will have no fiscal impact on the General Fund of the State, or on federal and/or other funds. Currently there are 506 licensed gun dealers in South Carolina.

**SPECIAL NOTES:**

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

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY REPEALING SECTIONS 23‑31‑130, 23‑31‑150, AND 23‑31‑180 RELATING TO REQUIRING A RETAIL DEALER TO POSSESS A LICENSE TO SELL OR TRANSFER A PISTOL AND THE ISSUANCE OF THE LICENSE, AND RELATING TO CERTAIN WEAPONS DECLARED TO BE CONTRABAND.

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

SECTION 1. Section 23‑31‑180 of the 1976 Code is repealed.

SECTION 2. Section 16‑23‑465 of the 1976 Code, as last amended by Act 274 of 2002, is further amended to read:

“Section 16‑23‑465. In addition to the penalties provided for by Sections ~~16‑11‑330 and 16‑23‑460 and by Article 1 of Chapter 23 of Title 16,~~ 16‑11‑620 and 23‑31-220 a person ~~convicted of carrying a pistol or firearm into a business which sells alcoholic liquor, beer, or wine for consumption on the premises~~ is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than ~~three~~ two years, or both, when the person:

(1) carries a firearm into any business which sells alcoholic liquor, beer, or wine for consumption on the premises and which at the time of the offense was clearly and conspicuously posted in accordance with Section 23‑31‑220;

(2) carries a firearm in any business which sells alcoholic liquor, beer, or wine for consumption on the premises and refuses to leave or to remove the firearm from the premises when asked to do so by a person legally in control of the premises; or

(3) consumes alcohol while carrying a firearm in any business which sells alcoholic liquor, beer, or wine for consumption on the premises.

~~In addition to the penalties described above, a person who violates this section while carrying a concealable weapon pursuant to Article 4, Chapter 31, Title 23, must have his concealed weapon permit revoked.~~”

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

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