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COMMITTEE AMENDMENT AMENDED AND ADOPTED

May 24, 2011

**S. 461**

Introduced by Senators Cleary, Sheheen, Lourie and Ford

S. Printed 5/24/11--S.

Read the first time January 27, 2011.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 61-2-85, SO AS TO PROVIDE THAT A HOLDER OF A PERMIT THAT ALLOWS ON-PREMISES CONSUMPTION OF BEER, WINE, OR ALCOHOLIC LIQUORS SHALL RECYCLE EACH RECYCLABLE BEVERAGE CONTAINER SOLD ON THE PREMISES IN ACCORDANCE WITH A MODEL RECYCLING PROGRAM DEVELOPED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL; TO AMEND SECTION 61-2-90, RELATING TO REQUIRING AN APPROVED RECYCLING PLAN TO BE INCLUDED IN A PERMIT APPLICATION FOR ON-PREMISES CONSUMPTION; AND TO AMEND SECTION 6-4-20, RELATING TO THE USE OF ACCOMMODATIONS TAXES, SO AS TO PROVIDE FOR FUNDING FOR THE ADMINISTRATION AND IMPLEMENTATION OF THE MODEL RECYCLING PROGRAM.

Amend Title To Conform

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

SECTION 1. Chapter 2, Title 61 of the 1976 Code is amended by adding:

“Section 61‑2‑85. (A) For purposes of this section:

(1) ‘Financially feasible recycling program’ means a recycling program that does not increase a permit holder’s total cost for solid waste disposal and recycling by more than fourteen percent of a permit holder’s existing annual costs for solid waste disposal.

(2) ‘Model recycling program’ means a recycling program that shall contain at a minimum:

(a) identification of the recyclable materials to be included in the recycling program, such as glass bottles, plastic bottles, aluminum cans, and packing materials;

(b) information on locating a recycling service, including but not limited to existing solid waste haulers, local government solid waste departments, or commercial recyclers;

(c) information on the logistics of collecting and disposing of recyclable materials, such as external storage, internal storage, or self‑hauling to drop‑off centers;

(d) information on the sources and kinds of recycling storage units;

(e) information on types of employee education programs, such as basic training on recycling; and

(f) information on strategies that permit holders may use to reduce or control costs.

(3) ‘Permit holder’ means a holder of a permit or license issued by the Department of Revenue that authorizes on premises consumption of beer, wine, or alcoholic liquor by the drink.

(4) ‘Financially feasible means of glass collection’ means the existence of a commercial or governmental financially feasible recycling program that allows a permit holder to contract for onsite pickup of glass or provides a glass container recycling drop off location that is easily available to a permit holder.

(5) ‘Recycling plan’ means a plan for recycling that provides for the separation, storage, collection, and recycling of recyclable beverage containers and their packaging that are sold on the premises of a permit holder, including, but not limited to, aluminum, plastic, glass containers, and cardboard used to package, ship, or deliver the beverage containers. (B) A permit holder must certify as part of its permitting process with the Department of Revenue that a site specific recycling plan for the collection and recycling of recyclable beverage containers and packaging sold on the premises by the permit holder has been prepared and will be made available upon demand to the Department of Revenue. Each site specific recycling plan must:

(1) contain all elements included in a model recycling plan that shall be developed by the Department of Health and Environmental Control and made available on its website; or

(2) be at least as comprehensive as the model recycling plan.

(C) A permit holder is exempt:

(1) from the requirement to implement recycling of glass containers if a financially feasible means of glass collection is not available to a permit holder and a permit holder has documentation to support the exemption; or

(2) from the requirement to implement a site specific recycling plan if a financially feasible recycling program is not available to a permit holder and a permit holder has documentation to support the exemption.

(D) The Department of Revenue shall annually perform a random audit of recycling plans to determine compliance with the provisions of this section. All permit holders must have a site specific recycling plan. A permit holder claiming an exemption from implementation of all or part of a recycling plan must provide adequate documentation to support an exemption.

(E) (1) A permit holder may be subject to penalties for:

(a) failure to have a site specific recycling plan;

(b) failure to implement a recycling plan; or

(c) failure to provide adequate documentation supporting an exemption.

(2) Penalties imposed pursuant to this section are as follows:

(a) for a first offense, a warning;

(b) for a second offense, a fine of not less than two hundred fifty dollars nor more than five hundred dollars; or

(c) for a third or subsequent offense, a fine of one thousand dollars.

(F) For purposes of this section, communications and documents that are required to be transmitted in writing may also be transmitted by electronic transmission, if both the sender and receiver agree to electronic transmission.

(G) Failure of a permit holder to comply with the provisions of this section shall not be grounds for denial, revocation or non‑renewal of a permit authorized under Title 61.”

SECTION 2. Section 61‑2‑90 of the 1976 Code is amended to read:

“Section 61‑2‑90. (A) A person desiring a license or permit under this title must file with the department an application in writing on forms provided by the department containing a statement under oath setting forth:

(1) the name, address, date of birth, race, and nationality of the person applying for the license or permit;

(2) the exact location where the business is proposed to be operated;

(3) a description of the type of business to be operated;

(4) whether the applicant or an owner of the business has been involved in the sale of alcoholic liquors, beer, or wine in this or another state and whether he has had a license or permit suspended or revoked;

(5) whether the applicant has been a legal resident of this State for at least thirty days before the date of application, and has maintained his principal place of abode in the State for at least thirty days before the date of application;

(6) other information required by the department to determine if the application meets all statutory requirements for the license or permit and to determine the true owners of the business seeking the license or permit.

(B) A person applying for or renewing a permit or license to allow on premises consumption of beer, wine, or alcoholic liquor by the drink must include in the application or renewal a written certification that there is a site specific recycling plan for the location on the permit application or renewal as required by Section 61‑2‑85.”

SECTION 3. Section 61‑2‑120 of the 1976 Code is amended to read:

“(A) Biennial licenses and permits issued under this title expire according to the county where the licensed location is situated. The expiration dates are the last day of:

(1) February in years which end in an:

(a) odd number for Allendale, Bamberg, Barnwell, Beaufort, and Berkeley Counties;

(b) even number for Charleston, Clarendon, Colleton, Dorchester, Georgetown, Hampton, Jasper, and Williamsburg Counties;

(2) May in years which end in an:

(a) odd number for Cherokee, Chester, Chesterfield, Darlington, Dillon, Fairfield, Florence, and Horry Counties;

(b) even number for Lancaster, Marion, Marlboro, Union, and York Counties;

(3) August in years which end in an:

(a) odd number for Calhoun, Kershaw, Lee, Orangeburg, and Sumter Counties;

(b) even number for Richland County;

(4) November in years which end in an:

(a) odd number for Abbeville, Aiken, Anderson, Edgefield, Greenville, and Greenwood Counties;

(b) even number for Laurens, Lexington, McCormick, Newberry, Oconee, Pickens, Saluda, and Spartanburg Counties.

(B) For a period of eight years from the issuance of a permit or license requiring certification of a recycling plan, each holder of an on premises consumption permit or license required to implement a recycling plan pursuant to Section 61‑2‑85 and Section 61‑2‑90 shall be allowed a ten percent reduction on its biennial permit or license fee for every two years that the holder uses a required recycling plan that includes recycling of glass containers.”

SECTION 4. The Department of Health and Environmental Control and the Department of Revenue may promulgate regulations to implement these provisions.

SECTION 5. This act takes effect one year after approval by the Governor, except for SECTION 5, which shall be effective immediately upon signature of the Governor in order that the Department of Health and Environmental Control shall have a model recycling plan on its website prior to the effective date, and regulations may be promulgated by the Department of Health and Environmental Control and the Department of Revenue pending the effective date.

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