COMMITTEE REPORT

May 11, 2016

**H. 3450**

Introduced by Reps. Bannister, Tallon, Cobb‑Hunter, D.C. Moss, Herbkersman, Murphy, Brannon, Bedingfield, Delleney, Finlay, Gambrell, Goldfinch, Hamilton, Henderson, Hicks, Horne, McCoy, Pitts, Quinn, G.M. Smith and Spires

S. Printed 5/11/16--S. [SEC 5/12/16 12:30 PM]

Read the first time June 4, 2015.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3450) to amend the Code of Laws of South Carolina, 1976, by adding Section 61-4-360 so as to prohibit a beer wholesaler from delivering beer to a retail, 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 language and inserting the following:

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

“Section 61‑2‑115. (A) For the purposes of this section:

(1) ‘Alcoholic beverages’ mean beer, wine, and alcoholic liquors, as defined in Chapter 4, Title 61 and Chapter 6, Title 61.

(2) ‘Come to rest’ means that alcoholic beverages are physically unloaded from the transporter, truck, or other common carrier transporting the alcoholic beverages into or within the State onto the floor, loading dock, or other part of a wholesaler’s licensed premises before being loaded onto a transport, truck, or other common carrier for delivery and sale to a retail licensee or permittee.

(3) ‘Retail licensee or permittee’ means a retail seller of alcoholic beverages licensed or permitted pursuant to Chapter 4, Title 61 and Chapter 6, Title 61.

(4) ‘Wholesaler’s licensed premises’ means a wholesaler licensed pursuant to Chapter 4, Title 61 and Chapter 6, Title 61 and the physical location in the state where the alcoholic beverages are delivered to the licensed wholesaler.

(B) Before the sale and delivery to a retail licensee or permittee of alcoholic beverages, any alcoholic beverage acquired by a wholesaler from any source shall first come to rest on the wholesaler’s licensed premises.

(C) Notwithstanding any other provision of law, a wholesaler who violates the provisions of this section must:

(1) for a first offense, be fined not less than five hundred dollars nor more than one thousand five hundred dollars or have his license suspended for not more than twenty days, or both;

(2) for a second offense within two years of the first offense, be fined not less than one thousand five hundred dollars nor more than three thousand dollars or have his license suspended for not more than forty‑five days, or both;

(3) for a third or subsequent offense occurring within five years of the previous offense, be fined not less than three thousand dollars nor more than five thousand dollars, or have his license revoked permanently, or both.

(D) Nothing in this section may be construed to prohibit the department or the division from enforcement of any other applicable provision in this title.”

SECTION 2. This act takes effect thirty days after approval by the Governor and shall apply to any violations occurring after that date. /

Renumber sections to conform.

Amend title to conform.

Majority favorable. Minority unfavorable.

A. SHANE MASSEY BRAD HUTTO

For Majority. For Minority.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill would have no expenditure impact on the general fund, federal funds, or other funds.

**Explanation of Fiscal Impact**

**State Expenditure**

This bill adds Section 61-4-360 to prohibit a beer wholesaler from delivering beer to a retail beer and wine permit holder unless the beer has been received and unloaded at its licensed premises. This bill also adds Sections 61-4-370 and 61-6-1325 to prohibit a wine or liquor wholesaler from delivering wine or liquor to a retail beer and wine permit holder or a retail liquor license holder unless the wine or liquor has been received and unloaded at its licensed premises for a period of not less than twenty-four hours. Penalties are provided for violations of these sections.

**Department of Revenue.** The Department of Revenue indicates this bill will have no expenditure impact on the general fund, federal funds, or other funds.

**Judicial Department.** The Judicial Department reports that this bill will have a minimal fiscal impact on the general fund that can be absorbed within current appropriations. The department also indicates this bill will have no expenditure impact on federal funds, or other funds.

Violations of the provisions of this bill may result in an increase in the number of hearings held in the Administrative Law Court and the Court of Appeals.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 61‑4‑360 SO AS TO PROHIBIT A BEER WHOLESALER FROM DELIVERING BEER TO A RETAIL BEER AND WINE PERMIT HOLDER UNLESS THE BEER HAS BEEN RECEIVED, UNLOADED, AND STORED OR WAREHOUSED AT ITS LICENSED PREMISES, AND TO PROVIDE PENALTIES; BY ADDING SECTION 61‑4‑370 SO AS TO PROHIBIT A WINE WHOLESALER FROM DELIVERING WINE TO A RETAIL BEER AND WINE PERMIT HOLDER UNLESS THE WINE HAS BEEN RECEIVED, UNLOADED, AND STORED OR WAREHOUSED AT ITS LICENSED PREMISES FOR A PERIOD OF NOT LESS THAN TWENTY‑FOUR HOURS, AND TO PROVIDE PENALTIES; AND BY ADDING SECTION 61‑6‑1325 SO AS TO PROHIBIT A LIQUOR WHOLESALER FROM DELIVERING ALCOHOLIC LIQUORS TO A RETAIL LIQUOR LICENSE HOLDER UNLESS THE ALCOHOLIC LIQUORS HAVE BEEN RECEIVED, UNLOADED, AND STORED OR WAREHOUSED AT ITS LICENSED PREMISES FOR A PERIOD OF NOT LESS THAN TWENTY‑FOUR HOURS, AND TO PROVIDE PENALTIES.

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

SECTION 1. Article 3, Chapter 4, Title 61 of the 1976 Code is amended by adding:

“Section 61‑4‑360. (A) A beer wholesaler shall not deliver beer to a retail beer and wine permit holder unless the beer has been received and unloaded at a licensed wholesaler’s licensed premises within this State.

(B) A beer wholesaler who violates the provisions of this section must:

(1) for a first offense, be fined not less than two hundred dollars nor more than five hundred dollars or have his license suspended for not more than thirty days, or both;

(2) for a second offense within one year of the first offense, be fined not less than two hundred dollars nor more than five hundred dollars and have his license suspended for not more than one hundred eighty days, or both;

(3) for a third offense within two years of the first offense, be fined not less than five hundred dollars and have his license revoked permanently.

Section 61‑4‑370. (A) A wine wholesaler shall not deliver wine to a retail beer and wine permit holder unless the wine has been received and unloaded at a licensed wholesaler’s licensed premises within this State for a period of not less than twenty‑four hours.

(B) A wine wholesaler who violates the provisions of this section must:

(1) for a first offense, be fined not less than two hundred dollars nor more than five hundred dollars or have his license suspended for not more than thirty days, or both;

(2) for a second offense within one year of the first offense, be fined not less than two hundred dollars nor more than five hundred dollars and have his license suspended for not more than one hundred eighty days;

(3) for a third offense within two years of the first offense, be fined not less than five hundred dollars and have his license revoked permanently.”

SECTION 2. Subarticle 13, Article 3, Chapter 6, Title 61 of the 1976 Code is amended by adding:

“Section 61‑6‑1325. (A) A liquor wholesaler shall not deliver alcoholic liquors to a retail liquor license holder unless the alcoholic liquors have been received and unloaded at a licensed wholesaler’s licensed premises within this State for a period of not less than twenty‑four hours.

(B) A liquor wholesaler who violates the provisions of this section must:

(1) for a first offense, be fined not less than two hundred dollars nor more than five hundred dollars or have his license suspended for not more than thirty days, or both;

(2) for a second offense within one year of the first offense, be fined not less than two hundred dollars nor more than five hundred dollars and have his license suspended for not more than one hundred eighty days;

(3) for a third offense within two years of the first offense, be fined not less than five hundred dollars and have his license revoked permanently.”

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

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