**South Carolina General Assembly**

125th Session, 2023-2024

**H. 4231**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. M.M. Smith, Davis, Bernstein, Guest, Brittain, Henegan, B. Newton, Carter, B.L. Cox, Bannister, Herbkersman, Robbins, Schuessler, Hart and Leber

Companion/Similar bill(s): 492

Document Path: LC-0269SA23.docx

Introduced in the House on March 30, 2023

Introduced in the Senate on February 15, 2024

Last Amended on February 14, 2024

Currently residing in the House

Summary: Liquor Sales

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/30/2023 House Introduced and read first time ([House Journal‑page 20](h:\hj\20230330.docx))

3/30/2023 House Referred to Committee on **Judiciary** ([House Journal‑page 20](h:\hj\20230330.docx))

1/24/2024 House Member(s) request name added as sponsor: Robbins

1/24/2024 House Committee report: Favorable with amendment **Judiciary** ([House Journal‑page 5](h:\hj\20240124.docx))

1/25/2024 House Member(s) request name added as sponsor: Schuessler

1/30/2024 House Member(s) request name added as sponsor: Hart

1/30/2024 House Requests for debate-Rep(s). B. Newton, Hiott, Forrest, Felder, Hewitt, McCravy, Nutt, B.L. Cox, M.M. Smith, Davis, Carter, Bamberg, W. Newton, Gilliam, Calhoon, Wooten, McDaniel ([House Journal‑page 25](h:\hj\20240130.docx))

2/7/2024 House Member(s) request name added as sponsor: Leber

2/7/2024 House Debate adjourned ([House Journal‑page 25](h:\hj\20240207.docx))

2/14/2024 House Amended ([House Journal‑page 25](h:\hj\20240214.docx))

2/14/2024 House Read second time ([House Journal‑page 25](h:\hj\20240214.docx))

2/14/2024 House Roll call Yeas-68 Nays-44 ([House Journal‑page 31](h:\hj\20240214.docx))

2/15/2024 House Read third time and sent to Senate ([House Journal‑page 27](h:\hj\20240215.docx))

2/15/2024 Senate Introduced and read first time ([Senate Journal‑page 5](h:\sj\20240215.docx))

2/15/2024 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 5](h:\sj\20240215.docx))

3/26/2024 Senate Referred to Subcommittee: Talley (ch), Hutto,
Malloy, Senn, M.Johnson, Reichenbach, Tedder

5/1/2024 Senate Committee report: Favorable with amendment **Judiciary** ([Senate Journal‑page 9](h:\sj\20240501.docx))

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=4231&session=125&summary=B)  at the website

**VERSIONS OF THIS BILL**

[03/30/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/4231_20230330.docx)

[01/24/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4231_20240124.docx)

[02/14/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4231_20240214.docx)

[05/01/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4231_20240501.docx)

Indicates Matter Stricken

Indicates New Matter

Committee Report

May 01, 2024

H. 4231

Introduced by Reps. M. M. Smith, Davis, Bernstein, Guest, Brittain, Henegan, B. Newton, Carter, B. L. Cox, Bannister, Herbkersman, Robbins, Schuessler, Hart and Leber

S. Printed 05/01/24--S.

Read the first time February 15, 2024

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The committee on Senate Judiciary

To whom was referred a Bill (H. 4231) to amend the South Carolina Code of Laws by amending Section 61‑6‑1155, relating to micro‑distilleries, so as to provide that a micro‑distillery may sell certain, 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, SECTION 2, by striking Section 61-6-4160(C)(1), (2), (3), and (4) and inserting:

(C)(1) A permit authorized by this section may be issued only in those counties or municipalities where a majority of the qualified electors voting in a referendum vote in favor of the issuance of the permit. The county or municipal election commission, as the case may be, shall conduct a referendum upon petition of at least ten percent but not more than seven thousand five hundred qualified electors of the county or municipality, as the case may be. The petition form must be submitted to the county or municipal election commission not less than one hundred twenty days before the date of the referendum. The names on the petition must be on the petition form provided to county or municipal election officials by the State Election Commission. The names on the petition must be certified by the county or municipal election commission within sixty days after receiving the petition form. The referendum must be conducted at the next general election. The county or municipal election commission shall cause a notice to be published in a newspaper circulated in the county or municipality, as the case may be, at least seven days before the referendum. The state election laws must apply to the referendum, mutatis mutandis. The county or municipal election commission shall publish the results of the referendum and certify them to the South Carolina Department of Revenue. The question on the ballot must be:

“Shall the South Carolina Department of Revenue be authorized to issue permits to licensed retail dealers in this (county) (municipality) to allow for the sale of alcoholic liquors on Sunday between 1:00 p.m. and 5:00 p.m. in compliance with the provisions of the Alcoholic Beverage Control Act?”

(2) A referendum for this purpose may not be held by a county or municipality more often than once in forty-eight months by the same county or municipality initiating the referendum.

(3) The conducting of a referendum by a county shall not affect the right of a municipality which is within that county to conduct a referendum within forty-eight months of the county referendum.

(4) The expenses for this purpose must be paid by the county or municipality conducting the referendum.

(5) In addition to the petition method of calling the referendum provided for in item (1), a county or municipal governing body by ordinance also may call the referendum. Upon receipt of a copy of the ordinance filed with the county or municipal election commission at least sixty days before the date of the next general election, the commission shall conduct the referendum in the manner provided in this section at that general election. The provisions of this item are in addition to the authority of a municipal governing body to call for a referendum under the circumstances enumerated in subsection (D).

Amend the bill further, SECTION 2, by striking Section 61-6-4160(D)(1) and (2) and inserting:

(D)(1) The municipal governing body may by ordinance order a referendum on the question of the issuance of permits to allow the sale of alcoholic liquors in the following circumstances:

(a) parts of the municipality are located in more than one county;

(b) as a result of a favorable vote in a county referendum held pursuant to this section, permits may be issued in only the parts of the municipality located in that county; and

(c) the proposed referendum would authorize issuance of permits in the remaining parts of the municipality.

(2) The method of ordering a referendum provided in this subsection is in addition to the petition method.

Amend the bill further, SECTION 2, by striking Section 61-6-4160(E) and (F) and inserting:

(E) Notwithstanding the results of a county referendum held in the county in which the municipality resides:

(1) a municipal referendum failing to approve the issuance of permits pursuant to this section shall have the effect of not authorizing the issuance of permits in the entirety of the municipality; and

(2) a municipal referendum approving the issuance of permits pursuant to this section shall have the effect of authorizing the issuance of permits in the entirety of the municipality.

(F) Permits authorized to be issued in a county or municipality pursuant to this section may continue to be issued or reissued without the requirement of a further referendum.

Renumber sections to conform.

Amend title to conform.

LUKE RANKIN for Committee.

statement of estimated fiscal impact

Explanation of Fiscal Impact

State Expenditure

This bill, as amended, allows a micro-distillery to sell alcoholic liquors distilled on the licensed premises at retail between 1:00pm and 5:00pm on Sunday. The bill also authorizes DOR to issue a permit to allow the sale of alcoholic liquors between 1:00pm and 5:00pm on Sunday by a licensed retail dealer in a county or municipality that authorizes the Sunday sale of alcoholic liquors by referendum. DOR must charge a nonrefundable filing fee of $100 for processing each permit application and a nonrefundable fee of $3,000 per year for an annual fifty-two week permit. If the expiration date of the biennial liquor retail license is less than fifty-two weeks from the date of the application for the fifty-two week permit, DOR must prorate the $3,000 fee on a monthly basis. The permit fee must be waived if the applicant certifies to the department that the applicant is the owner of the retail premises for which the permit is sought, and the applicant does not have an ownership interest in other retail locations where a permit authorizing the Sunday sale of liquor may be issued.

A permit may be issued only in counties or municipalities where a majority of the qualified electors voting in a referendum vote in favor of the issuance of the permit. The county or municipal election commission must conduct a referendum upon the petition of at least 10.0 percent but not more than 7,500 qualified electors of the county or municipality. The county or municipality may also call for the referendum by ordinance. The bill specifies that the county or municipality will pay the expenses of conducting the referendum.

**Department of Revenue.** This bill, as amended, will have no expenditure impact for DOR. The department indicates that it has processes in place to update its forms, website information, and system functions, and anticipates that any expenses will be managed with existing appropriations.

**Election Commission.** This bill, as amended, tasks the State Election Commission with various responsibilities, including certifying the names on the petition and publishing the results of the referendum. The agency anticipates it can manage the responsibilities of the bill within existing appropriations. Therefore, this bill will have no expenditure impact on the State Election Commission.

State Revenue

This bill, as amended, allows a micro-distillery to sell alcoholic liquors distilled on the licensed premises at retail between 1:00pm and 5:00pm on Sunday. The bill also authorizes DOR to issue a permit to allow the sale of alcoholic liquors between 1:00pm and 5:00pm on Sunday by a licensed retail dealer in a county or municipality that authorizes the Sunday sale of alcoholic liquors by referendum. RFA anticipates that this bill will have a minimal impact on liquor sales and resulting sales and alcohol tax revenues. Although we anticipate the provisions of this bill may cause a shift in the manner in which consumers purchase alcoholic liquors, the provisions of the bill are not expected to result in a material expansion of alcoholic liquor purchases.

Local Expenditure

This bill, as amended, provides that a county or municipality may authorize the sale of alcoholic liquors between 1:00pm and 5:00pm on Sunday by referendum. The bill specifies that the county or municipality will pay the expenses of conducting the referendum. The referendum vote will be in conjunction with a general election and therefore, will not increase local expenses.

Local Revenue

This bill, as amended, may result in an undetermined increase in local revenue due to the creation of a new permit with a $100 filing fee and a $3,000 annual permit fee allowing the sale of alcoholic liquors between 1:00pm and 5:00pm on Sunday. The permit fee must be waived if the applicant certifies to the department that the applicant is the owner of the retail premises for which the permit is sought, and the applicant does not have an ownership interest in other retail locations where a permit authorizing the Sunday sale of liquor may be issued. Filing and permit fees will be distributed according to Section 61-6-2010(B). DOR indicates that there are currently 1,230 alcoholic liquor retail licenses in South Carolina. However, RFA is unable to estimate the number of retailers who will elect to obtain the new permit. Therefore, the local revenue impact is undetermined and will depend upon the number of permits issued.

Introduced on March 30, 2023

State Expenditure

This bill allows a micro-distillery to sell alcoholic liquors distilled on the licensed premises at retail on Sundays. The bill also authorizes DOR to issue a permit to allow the sale of alcoholic liquors on Sunday by a licensed retail dealer in a county or municipality that authorizes the sale of alcoholic liquors. The permit may only be issued in counties that were allocated at least $1,000,000 in accommodations tax from DOR in FY 2015-16 and may only authorize the sale of alcoholic liquors between the hours of twelve p.m. and seven p.m. A qualifying county or municipality may authorize the sale of alcoholic liquors on Sunday through an ordinance:

authorizing the issuance of a retail permit to sell alcoholic liquors on Sunday in compliance with the Alcoholic Beverage Control Act;

providing for a referendum vote to allow for the issuance of a retail permit to sell alcoholic liquors on Sunday in compliance with the Alcoholic Beverage Control Act; or

approving the results of a referendum vote conducted upon the petition of at least 10.0 percent but not more than 7,500 qualified electors of the county or municipality.

The bill specifies that the county or municipality will pay the expenses of conducting the referendum.

**Department of Revenue.** This bill will have no expenditure impact for DOR. The department indicates that it has processes in place to update its forms, website information, and system functions, and anticipates that any expenses will be managed with existing appropriations.

**Election Commission.** This bill tasks the State Election Commission with various responsibilities, including certifying the names on the petition and publishing the results of the referendum. The agency anticipates it can manage the responsibilities of the bill within existing appropriations. Therefore, this bill will have no expenditure impact on the State Election Commission.

State Revenue

This bill allows a micro-distillery to sell alcoholic liquors distilled on the licensed premises at retail on Sundays. The bill also authorizes DOR to issue a permit to allow the sale of alcoholic liquors on Sunday by a licensed retail dealer in a county or municipality that authorizes the sale of alcoholic liquors. However, the fee for this new permit has not been determined. Additionally, RFA is unable to estimate the number of new permits that will be issued pursuant to this bill. Therefore, the revenue impact to the General Fund is undetermined and will depend upon the fee and number of permits issued.

RFA anticipates that this bill will have a minimal impact on liquor sales and resulting sales and alcohol tax revenues. Although we anticipate the provisions of this bill may cause a shift in the manner in which consumers purchase alcoholic liquors, the provisions of the bill are not expected to result in a material expansion of alcoholic liquor purchases.

Local Expenditure

This bill provides that a county or municipality that was allocated at least $1,000,000 in accommodations tax from DOR in FY 2015-16 may authorize the sale of alcoholic liquors on Sunday through an ordinance authorizing the issuance of a permit in compliance with the Alcoholic Beverage Control Act or by referendum. The bill specifies that the county or municipality will pay the expenses of conducting the referendum. The referendum vote will be in conjunction with a general election and therefore, will not increase local expenses. For reference, Beaufort, Charleston, Florence, Georgetown, Greenville, Horry, Lexington, Richland, Spartanburg, and York counties were allocated at least $1,000,000 in accommodations tax from DOR in FY 2015-16.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

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A bill

to amend the South Carolina Code of Laws by amending Section 61‑6‑1155, relating to MICRO‑DISTILLERIES, so as to provide that a micro‑distillery may sell certain liquors distilled on the premises on Sundays; and by amending Section 61‑6‑4160, relating to the prohibition on the sale of alcoholic liquors on certain days, so as to provide that certain local governing bodies may authorize the sale of alcoholic liquors on sundays under certain circumstances.

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

SECTION 1. Section 61-6-1155 of the S.C. Code is amended by adding:

(E) Notwithstanding any other provision of law, a micro-distillery selling liquor at its licensed premises pursuant to authorization set forth in subsection (A) and provided a referendum is conducted pursuant to Section 61-6-2010(C) may sell the alcoholic liquors distilled on the licensed premises at retail between 1:00 p.m. and 5:00 p.m. on Sundays. The sale of such alcoholic liquors must comply with the provisions of this chapter, notwithstanding the prohibition of Sunday retail sales.

SECTION 2. Section 61-6-4160 of the S.C. Code is amended to read:

Section 61-6-4160. (A) It is unlawful to sell alcoholic liquors on Sunday except as authorized by law, on Christmas Day, or during periods proclaimed by the Governor in the interest of law and order or public morals and decorum. Full authority to proclaim these periods is conferred upon the Governor in addition to all his other powers. It is unlawful for a retail dealer to sell alcoholic liquors on Sunday except as authorized and provided for in this section.

(B) The Department of Revenue may issue a permit to allow the sale of alcoholic liquors on Sunday between 1:00 p.m. and 5:00 p.m. by a licensed retail dealer in a county or municipality that authorizes the sale of alcoholic liquors on Sunday in the manner provided in subsection (C). The department shall charge a nonrefundable filing fee of one hundred dollars for processing each application. The department shall charge for an annual fifty-two week permit a nonrefundable fee of three thousand dollars per year. However, the fifty-two-week permit must not extend beyond the expiration date of the biennial license issued pursuant to this chapter. If the expiration date is less than fifty-two weeks from the date of the application for the fifty-two-week permit, the department must prorate the three thousand dollar fee on a monthly basis. The permit fee must be waived if the applicant certifies to the department that the applicant is the owner of the retail premises in which the permit is sought, and the applicant does not have an ownership interest in other retail locations where a permit authorizing the Sunday sale of liquor may be issued. The department in its sole discretion shall specify the terms and conditions of the permit. The filing and permit fees must be distributed by the Department of Revenue pursuant to the provisions of Section 61-6-2010(B).

(C)(1) A permit authorized by this section may be issued only in those counties or municipalities where a majority of the qualified electors voting in a referendum vote in favor of the issuance of the permit. The county or municipal election commission, as the case may be, shall conduct a referendum upon petition of at least ten percent but not more than seven thousand five hundred qualified electors of the county or municipality, as the case may be. The petition form must be submitted to the election commission not less than one hundred twenty days before the date of the referendum. The names on the petition must be on the petition form provided to county election officials by the State Election Commission. The names on the petition must be certified by the election commission within sixty days after receiving the petition form. The referendum must be conducted at the next general election. The election commission shall cause a notice to be published in a newspaper circulated in the county or municipality, as the case may be, at least seven days before the referendum. The state election laws must apply to the referendum, mutatis mutandis. The election commission shall publish the results of the referendum and certify them to the South Carolina Department of Revenue. The question on the ballot must be:

“Shall the South Carolina Department of Revenue be authorized to issue permits to licensed retail dealers in this (county) (municipality) to allow for the sale of alcoholic liquors on Sunday between 1:00 p.m. and 5:00 p.m. in compliance with the provisions of the Alcoholic Beverage Control Act?”

(2) A referendum for this purpose may not be held more often than once in forty-eight months.

(3) The expenses for this purpose must be paid by the county or municipality conducting the referendum.

(4) In addition to the petition method of calling the referendum provided for in item (1), a county or municipal governing body by ordinance also may call the referendum. Upon receipt of a copy of the ordinance filed with the county or municipal election commission at least sixty days before the date of the next general election, the commission shall conduct the referendum in the manner provided in this section at that general election. The provisions of this item are in addition to the authority of a municipal governing body to call for a referendum under the circumstances enumerated in subsection (D).

(D)(1) The municipal governing body may order a referendum on the question of the issuance of permits to allow the sale of alcoholic liquors in the following circumstances:

(a) parts of the municipality are located in more than one county;

(b) as a result of a favorable vote in a county referendum held pursuant to this section, permits may be issued in only the parts of the municipality located in that county; and

(c) the proposed referendum would authorize issuance of permits in the remaining parts of the municipality.

(2) The method of ordering a referendum provided in this subsection is in addition to the petition method. An unfavorable vote in a municipal referendum does not affect the authority to issue these permits in the part of the municipality located in a county where these permits may be issued.

(3) Upon receipt of a copy of the ordinance filed with the municipal election commission at least sixty days before the date of the general election, the commission must conduct the referendum at the time of the general election and publish and certify its results in the same manner as provided in subsection (C).

(E) Permits authorized to be issued in a county or municipality pursuant to this section may continue to be issued or reissued without the requirement of a further referendum.

(F) Permits issued by the Department of Revenue pursuant to this section may be issued in all parts of a municipality if any part of the municipality is located in a county where the issuance of these permits is allowed.

(G)(1) For purposes of referendums held pursuant to this section, “general election” means a:

(a) municipal general election held at a time other than the first Tuesday following the first Monday in November of even-numbered years; or

(b) county general election held on the first Tuesday following the first Monday in November of even-numbered years.

(2) A municipality that does not have a municipal general election scheduled within the same calendar year as a county general election may call, by ordinance, for a referendum to be held on the same date as the county general election, provided that a copy of the ordinance has been filed with the county and municipal election commissions no later than the date required by Section 7-13-355. The expenses for a referendum ordered by a municipality must be paid by the municipality. When a municipal referendum is held at the time of a county general election, the referendum may be conducted by the municipal or county election commission as provided for by an agreement between the municipality and county.

(H) A person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

(a)(1) for a first offense, by a fine of two hundred dollars or imprisonment for sixty days;

(b)(2) for a second offense, by a fine of one thousand dollars or imprisonment for one year; and

(c)(3) for a third or subsequent offense, by a fine of two thousand dollars or imprisonment for two years.

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

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