~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 17, 2013

**H. 3554**

Introduced by Reps. Cole, Forrester, G.M. Smith, Stavrinakis, Herbkersman and Merrill

S. Printed 4/17/13--S.

Read the first time March 21, 2013.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3554) to amend Section 61‑4‑1515, Code of Laws of South Carolina, 1976, relating to samples and sales of beer at breweries, so as to specify that fourteen percent, 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 61‑4‑1515 (A) and (B) of the 1976 Code are amended to read:

“Section 61‑4‑1515. (A) ~~Notwithstanding another provision of law, a~~ A brewery licensed in this State is authorized to offer samples of beer ~~brewed in this State~~ to consumers on its licensed premises, ~~with or without cost, to consumers under the~~ for on-premises consumption, provided that the beer is brewed on the licensed premises with an alcohol content of fourteen percent by weight, or less, subject to the following conditions:

(1) sales to or ~~tastings~~ samplings by consumers must be held in conjunction with a tour by the consumer of the licensed premises and the entire brewing process utilized at the licensed premises;

(2) ~~a sample~~ sales or samplings shall not be offered or made to, or allowed to be ~~consumed by~~ offered or made to, an intoxicated person or a person who is under the age of twenty-one;

(3) ~~a sample shall be~~ no more than ~~two ounces per brand of beer with over eight percent alcohol by weight and no more than four~~ sixteen ounces of beer ~~with under eight percent alcohol by weight brewed at the licensed premises; and~~

~~(4)~~ ~~no more than four brands of beer~~ brewed at the licensed premises may be sampled by a consumer without cost for on-premises consumption ~~in~~ within a twenty-four hour period;

(4)(a) no more than forty-eight ounces of beer brewed at the licensed premises may be sold to a consumer for on-premises consumption within a twenty-four hour period; and

(b) of that forty-eight ounces, no more than sixteen ounces of beer with an alcoholic weight of above eight percent shall be sold to a consumer for on-premises consumption within a twenty-four hour period;

(5) the brewery must develop and use a system to monitor the amounts and types of beer sampled or sold to a consumer for on-premises consumption;

(6) the brewery must sell the beer at the licensed premises at a price approximating retail prices generally charged for identical beverages in the county where the licensed premises are located;

(7) the brewery must remit appropriate taxes to the Department of Revenue for beer sales in an amount equal to and in a manner required for excise taxes assessed by the department. The brewery also must remit appropriate sales and use taxes and local hospitality taxes;

(8) the brewery must post signage at each entrance and in places in the brewery seen during a tour that states the high alcoholic content of the various types of beer available in the brewery and the penalties for convictions for driving under the influence;

(9) the brewery must maintain liability insurance policies in the amount of at least one million dollars per occurrence, ten million dollars in the aggregate, during the time it is licensed; and

(10) the brewery must offer the same training to its servers that businesses with on-premises consumption licenses are required to offer.

(B) A brewery located in this State is authorized to sell beer on its licensed premises for off-premises consumption, provided that the beer was brewed on the licensed premises with an alcohol content of fourteen percent by weight or less, subject to the following ~~restrictions~~ conditions:

(1) the maximum amount of beer that may be sold to an individual per day shall be equivalent to two hundred eighty-eight ounces in total;

(2) the beer only shall be sold in conjunction with a tour by the consumer of the licensed premises and the entire brewing process utilized at the licensed premises;

(3) the beer sold is for personal use only and cannot be resold;

(4) the beer cannot be sold to anyone holding a retail beer and wine license for the purpose of resale in their establishment;

(5) the brewery must sell the beer at the licensed premises at a price approximating retail prices generally charged for identical beverages in the county where the licensed premises are located; and

(6) the brewery must remit taxes to the Department of Revenue for beer sales in an amount equal to and in a manner required for taxes assessed by Section 12‑21‑1020 and Section 12‑21‑1030. The brewery also must remit appropriate sales and use taxes and local hospitality taxes.”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN 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 Department of Revenue indicates there is no fiscal impact with the adoption of this bill.

*Approved By:*

Brenda Hart

Office of State Budget

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**REVENUE IMPACT 1/**

This bill is not expected to affect general fund beer tax revenue in FY2013-14.

**Explanation**

This bill would amend Section 61-4-1515 to make a distinction between the sales of beer at a licensed brewery for on-premises consumption and off-premises consumption. This bill also designates that beer brewed and sold at a licensed brewery must have no more than fourteen percent alcohol by weight for on-premises consumption as well as for off-premises consumption. Currently, beer tastings held in conjunction with a tour of a brewery could not be more than two ounces per brand, with no more than four brands of beer consumed, with over eight percent alcohol by weight and no more than four ounces of beer with fewer than eight percent alcohol by weight at the licensed brewery in a 24 hour period. This bill would change this limitation to allow the sales of beer to increase to 64 ounces (5.3 twelve-ounce containers) of beer to be sold to an individual at a licensed brewery in a 24 hour period. These sales would be limited to on-premises consumption at a price approximating retail prices generally charged for identical beverages. This bill reinforces language to ensure that the brewery must remit appropriate taxes to the Department of Revenue for beer sales in an amount equal to the taxes assessed by Section 12-21-1020 and Section 12-21-1030. The brewery must also remit appropriate sales and use taxes and local hospitality taxes. Since this bill does not change any taxes or fees, and the retailer/brewery is currently remitting the appropriate revenues, this bill is not expected to affect general fund beer tax revenue in FY2013-14.

*Approved By:*

Frank A. Rainwater

Board of Economic Advisors

1/ This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

**A** **BILL**

TO AMEND SECTION 61‑4‑1515, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SAMPLES AND SALES OF BEER AT BREWERIES, SO AS TO SPECIFY THAT FOURTEEN PERCENT ALCOHOL BY WEIGHT IS THE MAXIMUM THAT MAY BE OFFERED FOR ON‑PREMISES CONSUMPTION, TO ALLOW FOR THE SALE OF SIXTY‑FOUR OUNCES OF BEER TO A CONSUMER EVERY TWENTY‑FOUR HOURS, TO PROVIDE THE BEER MUST BE SOLD AT THE APPROXIMATE RETAIL PRICE, TO PROVIDE THAT APPROPRIATE TAXES MUST BE REMITTED, AND TO CLARIFY THAT A CERTAIN PROVISION APPLIES TO OFF‑PREMISES CONSUMPTION.

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

SECTION 1. Section 61‑4‑1515(A) and (B) of the 1976 Code, as added by Act 231 of 2010, is amended to read:

“Section 61‑4‑1515. (A) Notwithstanding another provision of law, a brewery in this State is authorized to offer ~~samples of~~ beer ~~brewed in this State~~ to consumers on its licensed premises~~, with or without cost, to consumers under the~~ for on‑premises consumption provided that the beer was brewed on the licensed premises with an alcohol content of fourteen percent by weight, or less, subject to the following conditions:

(1) sales to or tastings by consumers must be held in conjunction with a tour by the consumer of the licensed premises and the entire brewing process utilized at the licensed premises;

(2) ~~a sample~~ sales or samples shall not be offered or made to, or allowed to be ~~consumed by~~ offered or made to, an intoxicated person or a person who is under the age of twenty‑one;

(3) ~~a sample shall be~~ no more than ~~two ounces per brand of beer with over eight percent alcohol by weight and no more than four~~ sixty‑four ounces of beer ~~with under eight percent alcohol by weight brewed at the licensed premises; and~~

~~(4)~~ ~~no more than four brands of beer~~ brewed at the licensed premises may be ~~sampled by~~ sold to a consumer in a twenty‑four hour period;

(4) the brewery must sell the beer at the licensed premises at a price approximating retail prices generally charged for identical beverages in the county where the licensed premises are located; and

(5) the brewery must remit appropriate taxes to the Department of Revenue for beer sales in an amount equal to and in a manner required for excise taxes assessed by the department. The brewery also must remit appropriate sales and use taxes and local hospitality taxes.

(B) A brewery located in this State is authorized to sell beer on its licensed premises for off‑premises consumption, provided that the beer was brewed on the licensed premises with an alcohol content of fourteen percent by weight or less, subject to the following restrictions:

(1) the maximum amount of beer that may be sold to an individual per day shall be equivalent to two hundred eighty‑eight ounces in total;

(2) the beer only shall be sold in conjunction with a tour by the consumer of the licensed premises and the entire brewing process utilized at the licensed premises;

(3) the beer sold is for personal use only and cannot be resold;

(4) the beer cannot be sold to anyone holding a retail beer and wine license for the purpose of resale in their establishment;

(5) the brewery must sell the beer at the licensed premises at a price approximating retail prices generally charged for identical beverages in the county where the licensed premises are located; and

(6) the brewery must remit taxes to the Department of Revenue for beer sales in an amount equal to and in a manner required for taxes assessed by Section 12‑21‑1020 and Section 12‑21‑1030. The brewery also must remit appropriate sales and use taxes and local hospitality taxes.”

SECTION 2. This act takes effect upon approval by the Governor.

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