COMMITTEE REPORT

February 23, 2017

**S. 114**

Introduced by Senators Bennett and Senn

S. Printed 2/23/17--S. [SEC 2/28/17 2:31 PM]

Read the first time January 10, 2017.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 114) to amend Chapters 4 and 6, Title 61, Code of Laws of South Carolina, 1976, by adding Section 61‑4‑555 and Section, 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. Chapter 2, Title 61 of the 1976 Code is amended by adding the following:

“Section 61-2-185. (A) A nonprofit organization may apply for a special nonprofit license. A special nonprofit event is an event for which a nonprofit organization solicits and accepts donations of alcohol to be sold for on-premises consumption. A nonprofit organization applying for a special nonprofit event license must meet the following requirements:

(1) The organization must be a nonprofit organization registered and in good standing with the South Carolina Secretary of State as a domestic nonprofit organization.

(2) The nonprofit organization must not hold a biennial permit or license issued pursuant to Title 61 for on-premises or off-premises consumption.

(3) A special nonprofit event must last no longer than seventy-two consecutive hours. For the purpose of this section, an event may take place at more than one location where the nonprofit organization has control of the premises for the special nonprofit event. For multiple locations to constitute one event, the location must be in the same county.

(4) The nonprofit organization must have a reputation for peace and good order in its community, and the principals must be of good character.

(5) The nonprofit organization must obtain a special nonprofit event license from the department. A nonprofit organization shall not be licensed to hold more than four special nonprofits in one calendar year.

(B)(1) A nonprofit organization seeking a special nonprofit event license application must submit an application, as promulgated by the department, that satisfies the requirements set forth in Section 61-2-90, and that includes notice to local law enforcement, and may require criminal background checks, together with a nonrefundable license fee of forty dollars.

(2) The department must deny an application that does not contain the information required on the application and the license fee.

(C) For purposes of this section only:

(1) ‘Alcohol’ means beer, ale, porter, and other similar malt or fermented beverages, wine not in excess of twenty-one percent alcohol, alcoholic liquors, or any other type of alcoholic beverage that contains any amount of alcohol and is used as a beverage for human consumption. It does not include alcohol that is not registered as a brand in this State and it does not include alcohol that is made at home for home consumption.

(2) ‘Supplier’ means a manufacturer, producer, vintner, brewer, micro-brewer, importer, distiller, or micro-distiller of alcohol, authorized to do business in this State.

(D) For a special nonprofit event only, a supplier or wholesaler of alcohol may donate alcohol to a nonprofit organization for sale and on-premises consumption at a special nonprofit event, without violation of Section 61-4-735, Section 61-4-940, or Chapter 6, Title 61 subject to the following requirements:

(1)(a) All alcohol provided to the nonprofit organization from a supplier or a wholesaler for the special nonprofit event must be transferred through a wholesaler licensed in this State that is authorized by an applicable supplier to sell alcohol to retailers.

(b) Up to three calendar days prior to the event, the alcohol may be picked up by the nonprofit organization from the applicable wholesaler’s warehouse, upon presentation of the special nonprofit event license, or the alcohol may be delivered to the event premises by the applicable wholesaler, if the nonprofit organization is in control of the event premises at the time of delivery, and upon presentment of the special nonprofit event license.

(c) Except as provided in subitem (E)(1), where applicable, the provisions of Article 13, Chapter 4, Title 61 concerning territorial agreements, operate.

(2) The wholesaler shall pay the appropriate state excise taxes to the department on the donated alcohol.

(3) A wholesaler that chooses to donate alcohol to the special nonprofit event may:

(a) provide alcohol previously purchased from the supplier and invoice the appropriate supplier for the cost of the alcohol, together with the excise taxes paid or to be paid by the wholesaler; or

(b) receive delivery of the donated alcohol from the supplier and bill the supplier for the excise tax paid or to be paid by the wholesaler.

(4) the wholesaler that is providing the alcohol must present an invoice to the nonprofit organization that includes:

(a) a listing of the types of alcohol and the alcohol brands that have been donated to the event;

(b) the wholesaler’s regular price to retailers for the alcohol so donated; and

(c) the name and address of the supplier or wholesaler that has donated the alcohol.

(5) The wholesaler shall transfer the donated alcohol to the nonprofit organization only after presentation of the original special nonprofit event license, as issued by the department, and the delivery of the wholesaler’s invoice to the nonprofit organization.

(6) For sales of non-donated alcohol from a wholesaler to the nonprofit organization for use and on-premises consumption at the special nonprofit event, the provisions of Section 61-4-30 and Section 61-6-1300 apply.

(7) The nonprofit organization licensed to hold the special nonprofit event is responsible for maintaining any and all invoices for alcohol donated or purchased for the event. The invoices must be available at the event upon request of the division.

(E)(1) In addition to the donations of alcohol, a nonprofit organization may solicit from and a supplier may provide, without violation of Section 61-4-735, Section 61-4-940, or Chapter 6, Title 61, the following, with or without charge, for use at a special nonprofit event:

(a) individual employees, agents, owners, or members of a supplier to pour and serve alcohol, if each of these individuals have received training from an alcohol education training program recognized by the department and posted on the department’s website;

(b) point of sale advertising specialties, as defined by federal law and regulations; and

(c) equipment used to dispense alcohol for sale for on-premises consumption.

(2) A wholesaler of alcohol shall not provide individual employees, owners, or members of a wholesaler to pour or serve alcohol at a special nonprofit event. A wholesaler of alcohol is prohibited from providing any services not authorized by Section 61-4-735, Section 61-4-940, or Section 61-6-1300.

(F)(1) For brands of beer that are registered in the State, but have not yet been assigned to a wholesaler for the territory where the special nonprofit event is to be held, a producer or importer may deliver the beer to a willing wholesaler who operates in the territory where the event is to be held, along with the appropriate excise tax and proof that the brand has been registered in the State, and the wholesaler may provide such delivered beer for the event.

(2) Brewpubs may donate beer that is brewed at the brewpub to a nonprofit organization holding a special nonprofit event pursuant to the requirements of this section. The brewpub must deliver the donated beer, together with the appropriate state excise tax, to a willing wholesaler that operates in the territory where the special nonprofit event is to be held and the wholesaler shall transfer the donated beer to the nonprofit organization in accordance with the provisions of this section.

(3) Donations pursuant to this subsection and delivery by the producer, importer, or brewpub shall not operate as an assignment of territory to the wholesaler and shall not be considered violations of Article 13 or Article 17, Chapter 4, Title 61.”

SECTION 2. This act becomes effective six months after the approval of the Governor. /

Renumber sections to conform.

Amend title to conform.

BRAD HUTTO for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Amended by Senate Judiciary on February 21, 2017**

**State Expenditure**

This bill as amended allows suppliers or wholesalers of beer, wine, and alcoholic liquors to donate these products to a nonprofit organization for sale and on-premises consumption at a special nonprofit event. The nonprofit must possess a new special nonprofit event license created by this bill, which DOR would issue. Donations must be transferred through a licensed wholesaler, who must pay the appropriate state excise taxes. The wholesaler may bill the supplier for the tax.

The amended bill also allows brewpubs to donate beer brewed at the brewpub to nonprofit organizations holding the new special nonprofit event license. These donations are subject to the same requirements as donations by wholesalers and suppliers, including transfer of the donated beer through a wholesaler and payment of the state excise tax. In this instance, the brewpub is responsible for payment of the tax.

For DOR to issue a special nonprofit event license to a nonprofit organization, the organization must be registered as a domestic organization and be in good standing with the South Carolina Secretary of State and not hold a biennial permit or license for on or off premises consumption of alcohol. The special nonprofit event license fee is $40 per event. An event may not exceed 72 consecutive hours, and licenses may be issued to each nonprofit for not more than four events a calendar year.

**Department of Revenue.** The department indicates this bill will have no expenditure impact on the general fund, other funds, or federal funds, as the agency anticipates managing applications for special nonprofit event licenses with its existing licensing resources.

**State Reve**n**ue**

Allowing donations of beer, wine, or alcoholic liquors for nonprofit organizations to sell as a fundraiser may affect the number of special event permits issued by DOR. The existing special event licenses with a fee of $10 a day for beer and wine only, $35 a day for alcoholic liquors, and $45 a day for beer, wine, and alcoholic liquors are expected to decrease. The new special non-profit event license fee allowing nonprofits to receive beer, wine, and/or alcoholic donations from wholesalers and manufacturers will be $40 per event. An unknown number of these licenses are expected to be   
issued. As demand for neither of these licenses can be projected, the revenue impact of this bill on the general fund is undetermined.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND CHAPTERS 4 AND 6, TITLE 61, CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 61‑4‑555 AND SECTION 61‑6‑2001, RELATING TO SPECIAL AND TEMPORARY PERMITS TO SELL ALCOHOLIC BEVERAGES AT CERTAIN EVENTS, SO AS TO ALLOW MANUFACTURERS OR PRODUCERS OF BEER, ALE, PORTER, WINE, OR ALCOHOLIC LIQUORS TO DONATE THEIR PRODUCTS AND FURNISH EQUIPMENT AND REPRESENTATIVES TO DISPENSE AND PROMOTE THEIR BEVERAGES TO QUALIFIED NONPROFIT ORGANIZATIONS THAT INTEND TO SELL THESE PRODUCTS AT PERMITTED EVENTS ORGANIZED TO RAISE FUNDS FOR THE NONPROFIT ORGANIZATION OR OTHER CHARITABLE PURPOSE.

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

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

“Section 61‑4‑555. Notwithstanding any other provision of law, manufacturers or producers of beer, ale, porter, or wine may donate their products to a nonprofit organization, as defined in Chapter 6, Title 61, that is issued a special permit, pursuant to Section 61‑4‑550, to sell beer, ale, porter, or wine at an event that is organized to raise funds for that nonprofit organization or for other charitable purposes. The manufacturer or producer may also furnish equipment and representatives to dispense and promote their beverages during the permitted event only. Nothing in this section shall prohibit two or more qualified nonprofit organizations from participating together in the event, but each nonprofit organization must be issued a special permit separately in order to participate in an event together. This provision applies only to qualified nonprofits that are issued a special permit and not to other organizations or persons issued a special permit pursuant to Section 61‑4‑550.”

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

“Section 61‑6‑2001. Notwithstanding any other provision of law, manufacturers or producers of alcoholic liquors may donate their products to a nonprofit organization that is issued a temporary permit, pursuant to Section 61‑6‑2000, to sell alcoholic liquors at an event that is organized to raise funds for that nonprofit organization or for other charitable purposes. The manufacturer or producer may also furnish equipment and representatives to dispense and promote their beverages during the permitted event only. Nothing in this section shall prohibit two or more qualified nonprofit organizations from participating together in the event, but each nonprofit organization must be issued a temporary permit separately in order to participate in an event together.”

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

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