~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 26, 2017

**S. 334**

Introduced by Senators Senn and Kimpson

S. Printed 4/26/17--H.

Read the first time April 4, 2017.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 334) to amend Sections 61‑4‑515 and 61‑6‑2016 of the 1976 Code, relating to permits to purchase and sell beer and wine for on‑premises, 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 adding appropriately numbered SECTIONS to read:

/ SECTION \_\_. A. The General Assembly affirms its police power to regulate the business of retail liquor sales in the manner and to the extent allowed by law including, but not limited to, Article VIII‑A, Section 1 of the South Carolina Constitution. This police power includes regulating the number and localities of retail dealer licenses that a person may be issued, a process that affects the health, safety, and morals of the state. Regulation of the number and localities of retail dealer licenses prevents monopolies and avoids problems associated with indiscriminate price cutting, excessive advertising of alcoholic products, and concentration of retail liquor stores in close proximity. Accordingly, in order to (1) protect the health, safety, and morals of this state; (2) prevent indiscriminate price cutting, excessive advertising of alcoholic products, and concentration of retail liquor stores in close proximity; (3) provide for the continuation of control and orderly processing by the state over the number and locations of retail liquor stores; and (4) ensure compliance with other laws governing the sales of alcoholic beverages, the General Assembly authorizes the planned and incremental growth of retail dealer licenses as provided in this SECTION of this act.

B. Section 61‑6‑140 of the 1976 Code is amended to read:

“Section 61‑6‑140. (A) To provide for an orderly and incremental growth in retail dealer licenses, the issuance of retail dealer licenses must be governed pursuant to the following requirements:

(1)(a) Until January 1, 2018, no more than three retail dealer licenses may be issued to one licensee, and the licensee must be eligible for a license for each store pursuant to Section 61‑6‑110.

(b) The limitation of no more than three retail dealer licenses to one licensee does not apply to a person having an interest in retail liquor stores as of July 1, 1978. Additional retail dealer licenses may be issued to that person as provided in this section.

(2) Beginning January 2, 2018, no more than four retail dealer licenses may be issued to one licensee, and the licensee must be eligible for each license for each store pursuant to Section 61‑6‑110.

(3) Beginning January 2, 2019, no more than five retail dealer licenses may be issued to one licensee, and the licensee must be eligible for each license for each store pursuant to Section 61‑6‑110.

(4) Beginning January 2, 2021, no more than six retail dealer licenses may be issued to one licensee, and the licensee must be eligible for each license for each store pursuant to Section 61‑6‑110.

(5) Beginning January 2, 2023, no more than eight retail dealer licenses may be issued to one licensee, and the licensee must be eligible for each license for each store pursuant to Section 61‑6‑110.

(6) Beginning July 1, 2025, no more than nine retail dealer licenses may be issued to one licensee, and the licensee must be eligible for each license for each store pursuant to Section 61‑6‑110.

(B) ~~No more than three~~ Retail dealer licenses may be issued for the use of one corporation, association, partnership, or limited partnership, pursuant to the provisions of this section. A corporation having the use of a retail dealer license that is owned by another corporation is considered to be holding the retail dealer license for the use of the owning corporation.

(C) The department may not grant or issue a new retail dealer license if the proposed place of business is within five hundred feet of an existing retail dealer licensee. For purposes of this section, the distance between the licensed premises of the existing business and the premises of the proposed business must be computed by a straight line measured between the two locations. This restriction does not apply to the renewal of a retail dealer license. Nothing in this subsection may be construed to abrogate or affect the provisions of any lawful ordinance, regulations or resolution, which are more restrictive than the provisions of this subsection.”

C. Section 61‑6‑150 of the 1976 Code is amended to read:

“Section 61‑6‑150. No person, directly or indirectly, individually or as a member of a partnership or an association, as a member or stockholder of a corporation, or as a relative to a person by blood or marriage within the second degree, may have any interest whatsoever in a retail liquor store licensed under this section except the ~~three~~ stores covered by ~~his~~ the person’s retail dealer’s licenses, as provided for in Section 61‑6‑140. ~~The prohibitions in this section do not apply to a person having an interest in retail liquor stores on July 1, 1978.~~”

SECTION \_\_. Section 61‑6‑1540 of the 1976 Code is amended to read:

“Section 61‑6‑1540. (A) Except as provided in subsection (B), no other goods, wares, or merchandise may be kept or stored in or sold in or from a retail alcoholic liquor store or place of business, and no place of amusement may be maintained in or in connection with the store. However, retail dealers may sell:

(1) drinking glassware and barware ~~packaged together with alcoholic liquors if the glassware and alcoholic liquors are packaged together by the wholesaler or producer in packaging provided by the producer~~;

(2) nonalcoholic items, other than beer or wine, packaged together with alcoholic liquors if the nonalcoholic items and alcoholic liquors are in sealed packages and are packaged together by the alcoholic liquor producer at its place of business; ~~and~~

(3) nonalcoholic mixers and nonalcoholic cocktail condiments consumed in conjunction with alcoholic liquors;

(4) beverage accessories and cooling accessories used in preparation of alcoholic liquors; and

(5) lottery tickets under the provisions of Chapter 150 of Title 59.

(B) Retail dealers licensed pursuant to the provisions of this article may sell all wines in the stores or places of business covered by their respective licenses, whether declared alcoholic or nonalcoholic or nonintoxicating by the laws of this State. Wines containing more than sixteen percent of alcohol by volume may be sold only in licensed alcoholic liquor stores or in establishments licensed to sell and permit consumption of alcoholic liquors by the drink. The provisions of this section do not amend, alter, or modify the taxes imposed on wines or the collection and enforcement of these taxes.

(C) As used in this section:

(1) ‘Nonalcoholic mixers’ include, but are not limited to, powdered drink mixes, packaged drink mixes, tonics, club sodas, seltzer waters, and colas;

(2) ‘Nonalcoholic cocktail condiments’ include, but are not limited to, bitters, ginger beers, lemon juices, lime juices, grenadines, cream coconut, olives, olive juices, rimming salts and sugars, wild hibiscus flowers, and syrups;

(3) ‘Beverage accessories’ include, but are not limited to, shakers, jiggers, muddlers, mixing pitchers, atomizers, bar knives, peelers, decanters, flasks, and martini picks;

(4) ‘Cooling accessories’ include, but are not limited to, ice molds, whiskey stones, ice picks, ice tongs, ice scoops, and ice buckets.”

SECTION \_\_. Section 61‑4‑960(A)(11), (12), and (13) of the 1976 Code, as last amended by Act 36 of 2013, is further amended to read:

“(11) a sampling may not be offered for more than four hours; and

(12) a retailer, pursuant to this section, may not offer more than one sampling per day~~; and~~

~~(13)~~  ~~the tasting may not be held in conjunction with a tasting in a retail alcoholic liquor store, pursuant to Section 61‑6‑1035, that is adjacent to and licensed in the same name of the retail permit authorizing the sale of beer~~.”

SECTION \_\_. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise effective.

SECTION \_\_. The General Assembly finds that all the provisions contained in this act relate to one subject as required by Section 17, Article III of the South Carolina Constitution in that each provision relates directly to, or in conjunction with, other sections to the subject of premises licensed to sell alcoholic liquors to consumers. The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in this act. /

Renumber sections to conform.

Amend title to conform.

F. GREGORY DELLENEY, JR. for Committee.

**A** **BILL**

TO AMEND SECTIONS 61‑4‑515 AND 61‑6‑2016 OF THE 1976 CODE, RELATING TO PERMITS TO PURCHASE AND SELL BEER AND WINE FOR ON‑PREMISES CONSUMPTION AND A BIENNIAL LICENSE TO PURCHASE ALCOHOLIC LIQUORS BY THE DRINK AT A MOTORSPORTS ENTERTAINMENT COMPLEX OR TENNIS SPECIFIC COMPLEX, TO INCLUDE BASEBALL COMPLEX, AND TO PROVIDE A DEFINITION FOR “BASEBALL COMPLEX”.

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

SECTION 1. Section 61‑4‑515 of the 1976 Code is amended to read:

“Section 61‑4‑515. (A) In addition to the permits authorized pursuant to the provisions of this article, the department also may issue a biennial permit to the owner, or his designee, of a motorsports entertainment complex, ~~or~~ tennis specific complex, or baseball complex located in this State, which authorizes the purchase and sale for on‑premises consumption of beer and wine at any occasion held on the grounds of the complex year round on any day of the week. The nonrefundable filing fee and the fees for the motorsports, ~~or~~ tennis complex, or baseball complex biennial permit are the same as for other biennial permits for on‑premises consumption of beer and wine, with the revenue therefrom used for the purposes provided in Section 61‑4‑510. Notwithstanding another provision of this article, the issuance of this permit authorizes the permit holder to purchase beer and wine from licensed wholesalers in the same manner that a person with appropriate licenses issued pursuant to this title purchases beer and wine from licensed wholesalers. The department in its discretion may specify the terms and conditions of the permit, pursuant to the provisions of Chapter 4, Title 61, and other applicable provisions under Title 61.

(B) The department may require such proof of qualifications for the issuance of these permits as it considers necessary, pursuant to the provisions of Chapter 4, Title 61, and these permits may be issued whether or not the motorsports entertainment complex, ~~or~~ tennis specific complex, or baseball complex is located in a county or municipality which pursuant to Section 61‑6‑2010 successfully has held a referendum allowing the possession, sale, and consumption of beer or wine or alcoholic liquors by the drink for a period not to exceed twenty‑four hours.

(C) The owner or designee of the motorsports entertainment complex, ~~or~~ the tennis specific complex, or the baseball complex may designate particular areas within the complex where patrons of events who have paid an admission price to attend or guests who are attending private functions at the complex, whether or not a charge for attendance is made, may possess and consume beer and wine provided at their own expense or at the expense of the sponsor of the private function.

(D) For purposes of this section:

(1) ‘Motorsports entertainment complex’ has the same meaning as provided in Section 12‑21‑2425.

(2) ‘Tennis specific complex’ means a tennis facility, and its ancillary grounds and facilities, which satisfies all of the following:

(a) has at least ten thousand fixed seats for tennis patrons;

(b) hosted one Women’s Tennis Association Premier tournament in 2013 and continues to host at least one Women’s Tennis Association Premier tournament in each year, or any successor Women’s Tennis Association tournament; and

(c) engages in tourism promotion.

(3) ‘Baseball complex’ means a baseball stadium, along with its ancillary grounds and facilities, that hosts a professional minor league baseball team.”

SECTION 2. Section 61‑6‑2016 of the 1976 Code is amended to read:

“Section 61‑6‑2016. (A) In addition to the other provisions of this chapter, the owner, or his designee, of a motorsports entertainment complex, ~~or~~ tennis specific complex, or baseball complex that is located in this State may be issued, upon application, a biennial license that authorizes the purchase and sale for on‑premises consumption of alcoholic liquors by the drink at any occasion held on the grounds of the complex under the same terms and conditions provided in Section 61‑4‑515, and the nonrefundable filing fee and license fee are the same as for other biennial licenses issued by the department for on‑premises consumption of alcoholic liquors by the drink. In the event that the owner or his designee applies for both a permit to purchase and sell for on‑premises consumption beer and wine and a license to purchase and sell for on‑premises consumption alcoholic liquors by the drink, only one fee is required, which is the same as the fee for the fifty‑two week local option permit under Section 61‑6‑2010 with the revenue therefrom used for the same purposes as provided in Section 61‑6‑2010.

(B) The department may require such proof of qualifications for the issuance of these licenses as it considers necessary, pursuant to the provisions of Chapter 6, Title 61, and these licenses may be issued whether or not the motorsports entertainment complex, ~~or~~ tennis specific complex, or baseball complex is located in a county or municipality, which pursuant to Section 61‑6‑2010 has successfully held a referendum allowing the possession, sale, and consumption of beer or wine or alcoholic liquors by the drink for a period not to exceed twenty‑four hours.

(C) The owner or designee of the motorsports entertainment complex, ~~or~~ the tennis specific complex, or the baseball complex may designate particular areas within the complex where patrons of events who have paid an admission price to attend or guests who are attending private functions at the complex, whether or not a charge for attendance is made, may possess and consume alcoholic liquors by the drink provided at their own expense or at the expense of the sponsor of the private function.

(D) For purposes of this section:

(1) ‘Motorsports entertainment complex’ has the same meaning as provided in Section 12‑21‑2425.

(2) ‘Tennis specific complex’ means a tennis facility, and its ancillary grounds and facilities, that satisfies all of the following:

(a) has at least ten thousand fixed seats for tennis patrons;

(b) hosted one Women’s Tennis Association Premier tournament in 2013 and continues to host at least one Women’s Tennis Association Premier tournament in each year, or any successor Women’s Tennis Association tournament; and

(c) engages in tourism promotion.

(3) ‘Baseball complex’ means a baseball stadium, along with its ancillary grounds and facilities, that hosts a professional minor league baseball team.”

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

‑‑‑‑XX‑‑‑‑