~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

January 29, 2020

**S. 290**

Introduced by Senators Talley, Climer, Turner, Campbell, Senn, Bennett, Fanning and Kimpson

S. Printed 1/29/20--S.

Read the first time January 8, 2019.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 290) to amend Section 61-2-170 of the 1976 Code, relating to drive‑through or curb service of alcoholic beverages, to provide that the department may not generate, 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 therein the following:

/ SECTION 1. Section 61-2-170 of the 1976 Code is amended to read:

“Section 61-2-170. Except as otherwise provided for in Section 61-4-45, ~~The~~ the department may not generate license fees to be deposited in the general fund of the State through the issuance of licenses or permits for on or off premises consumption which authorize alcoholic liquors~~, beer, or wine~~ to be sold on a drive through or curb service basis.”

SECTION 2. Article 1, Chapter 4, Title 61 of the 1976 Code is amended by adding:

“Section 61-4-45. (A) A retailer may deliver beer and wine in closed containers for off-premises consumption to a customer who has purchased or ordered the beer or wine online in advance of the delivery for curbside pickup to the customer’s vehicle if the vehicle is located within a clearly designated pickup area located adjacent to the retailer’s place of business.

(B) Beer and wine sold online or paid for at pickup as part of curbside pickup must be pulled from the inventory located at the licensed location of the retailer that is providing the curbside pickup and may not be pulled from the inventory of another retailer or licensed location.

(C) At the time of delivery to a customer’s vehicle, the beer and wine in closed containers for off-premises consumption must not be iced or chilled.

(D) Delivery shall not be made to an intoxicated person or to a person who is under the age of twenty-one. A customer who purchases beer and wine pursuant to this section must prove at pickup that he is twenty-one years of age or older.

(E) Sales of beer and wine for curbside pickup may be prepaid online or paid for at the time of pickup. A retailer does not violate the prohibition of sales to underage persons provided in Section 61-4-50 by virtue of accepting prepayment of an online purchase permitted under the provisions of this section.

(F) Any retailer’s employee who is responsible for delivering beer and wine in closed containers for off premises consumption to a customer’s vehicle shall be eighteen years of age or older.

(G)(1) Retailers in violation of this section are subject to penalties pursuant to Sections 61-4-250 and 61-4-270.

(2) Sales of beer or wine for curbside pickup must be made by a retailer’s employee who has been certified by the Department of Revenue to deliver beer or wine for curbside pickup. Training for such certification must include education regarding recognition of proper identification and identification of intoxicated persons.

(H) Proof of the purchaser’s age and identity must be electronically recorded and retained along with information regarding the purchase time and place. Maintenance of records in accordance with this subsection may be enforced by the Department of Revenue. Retailers who are found to have furnished or sold alcohol to intoxicated or underage persons shall have their licenses suspended pending a hearing on the allegations.”

SECTION 3. 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**

**Explanation of Fiscal Impact**

**Updated for Additional Agency Response on March 18, 2019**

**Introduced on January 8, 2019**

**State Expenditure**

This bill allows beer and wine to be sold for off-premises consumption on a drive through or curb service basis in closed containers. Further, beer and wine for curbside pickup may be prepaid online or paid for at the time of pickup. The Department of Revenue (DOR) is authorized to generate license fees for the issuance of permits for beer and wine sold on a drive through or curb service basis.

**South Carolina Law Enforcement Division (SLED).** This bill requires SLED to perform activities that will be conducted in the normal course of business. As such, this bill does not have any expenditure impact on the general fund, other funds, or federal funds. However, SLED states that the provisions of this bill will make it more difficult to enforce underage purchases of alcohol. SLED further indicates that retailers will be tasked with the responsibility of age verification when alcohol is delivered to the vehicle. Retailers must also ensure that the identification of the purchaser is current and complies with South Carolina alcohol laws.

**Department of Revenue.** This bill requires DOR to create a new permit for beer and wine sold on a drive through or curb service basis. DOR is unable to project the demand for the new permit described in the bill. Therefore, the expenditure impact of the bill is undetermined.

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

The bill authorizes DOR to collect license fees for the issuance of permits for beer and wine sold on a drive through or curb service basis. The license fee for the new permit for beer and wine sold on a drive through or curb service basis has not been determined. As such, the revenue impact of this bill is undetermined.

This fiscal impact has been updated to include a response from DOR.

**Introduced on January 8, 2019**

**State Expenditure**

This bill allows beer and wine to be sold for off-premises consumption on a drive through or curb service basis in closed containers. Further, beer and wine for curbside pickup may be prepaid online or paid for at the time of pickup. The Department of Revenue is authorized to generate license fees for the issuance of permits for beer and wine sold on a drive through or curb service basis.

**South Carolina Law Enforcement Division (SLED).** This bill requires SLED to perform activities that will be conducted in the normal course of business. As such, this bill does not have any expenditure impact on the general fund, other funds, or federal funds. However, SLED states that the provisions of this bill will make it more difficult to enforce underage purchases of alcohol. SLED further indicates that retailers will be tasked with the responsibility of age verification when alcohol is delivered to the vehicle. Retailers must also ensure that the identification of the purchaser is current and complies with South Carolina alcohol laws.

**Department of Revenue.** This bill requires the Department of Revenue to create a new permit for beer and wine sold on a drive through or curb service basis. The expenditure impact of this bill is pending, contingent upon a response from the Department of Revenue.

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

The bill authorizes the Department of Revenue to collect license fees for the issuance of permits for beer and wine sold on a drive through or curb service basis. The revenue impact of this bill is pending, contingent upon a response from the Department of revenue.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 61-2-170 OF THE 1976 CODE, RELATING TO DRIVE‑THROUGH OR CURB SERVICE OF ALCOHOLIC BEVERAGES, TO PROVIDE THAT THE DEPARTMENT MAY NOT GENERATE LICENSE FEES TO BE DEPOSITED IN THE GENERAL FUND OF THE STATE THROUGH THE ISSUANCE OF LICENSES OR PERMITS FOR ON OR OFF PREMISES CONSUMPTION WHICH AUTHORIZE ALCOHOLIC LIQUORS TO BE SOLD ON A DRIVE THROUGH OR CURB SERVICE BASIS; AND TO AMEND ARTICLE 1, CHAPTER 4, TITLE 61 OF THE 1976 CODE, RELATING TO BEER, ALE, PORTER, AND WINE, BY ADDING SECTION 61-4-45, TO PROVIDE THAT A RETAILER MAY DELIVER BEER AND WINE FOR OFF-PREMISES CONSUMPTION TO A CUSTOMER WHO HAS PURCHASED THE WINE OR BEER ONLINE IN ADVANCE OF THE DELIVERY FOR CURBSIDE PICKUP TO THE CUSTOMER’S VEHICLE IF THE VEHICLE IS LOCATED WITHIN A CLEARLY DESIGNATED PICKUP AREA LOCATED ADJACENT TO THE RETAILER’S PLACE OF BUSINESS, TO ESTABLISH REQUIREMENTS RELATED TO THIS PROVISION, AND TO PROVIDE PENALTIES.

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

SECTION 1. Section 61-2-170 of the 1976 Code is amended to read:

“Section 61-2-170. The department may not generate license fees to be deposited in the general fund of the State through the issuance of licenses or permits for on or off premises consumption which authorize alcoholic liquors~~, beer, or wine~~ to be sold on a drive through or curb service basis.”

SECTION 2. Article 1, Chapter 4, Title 61 of the 1976 Code is amended by adding:

“Section 61-4-45. (A) A retailer may deliver beer and wine in closed containers for off-premises consumption to a customer who has purchased or ordered the beer or wine online in advance of the delivery for curbside pickup to the customer’s vehicle if the vehicle is located within a clearly designated pickup area located adjacent to the retailer’s place of business.

(B) Beer and wine sold online or paid for at pickup as part of curbside pickup must be pulled from the inventory located at the licensed location of the retailer that is providing the curbside pickup and may not be pulled from the inventory of another retailer or licensed location.

(C) A customer who purchases beer and wine pursuant to this section must affirm at pickup that he is twenty-one years of age or older.

(D) Sales of beer and wine for curbside pickup may be prepaid online or paid for at the time of pickup. A retailer does not violate the prohibition of sales to underage persons provided in Section 61-4-50 by virtue of accepting prepayment of an online purchase permitted under the provisions of this section.

(E) Retailers in violation of this section are subject to penalties pursuant to Sections 61-4-250 and 61-4-270.”

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

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