~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 9, 2022

**H. 4998**

Introduced by Reps. Caskey, Wetmore and W. Newton

S. Printed 3/9/22--H.

Read the first time February 22, 2022.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4998) to amend Sections 61‑4‑10, 61‑6‑20, 61-6-30, 12‑21‑1010, 12‑21‑1030, 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 SECTION 7 and inserting:

/ SECTION 7. This act takes effect ninety days after approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

NEAL A. COLLINS for Committee.

**A** **BILL**

TO AMEND SECTIONS 61‑4‑10, 61‑6‑20, 61-6-30, 12‑21‑1010, 12‑21‑1030, AND 12‑33‑245, ALL RELATING TO ALCOHOLIC BEVERAGES, SO AS TO CONSIDER ALCOHOLIC CONSUMABLES THE SAME AS ALCOHOLIC BEVERAGES AND TO MAKE CONFORMING CHANGES.

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

SECTION 1. Section 61‑4‑10 of the 1976 Code is amended to read:

“Section 61‑4‑10. The following are declared to be nonalcoholic and nonintoxicating beverages:

(1) all beers, ales, porters, and other similar malt or fermented beverages containing not in excess of five percent of alcohol by weight;

(2) all beers, ales, porters, and other similar malt or fermented beverages containing more than five percent but less than fourteen percent of alcohol by weight that are manufactured, distributed, or sold in containers of six and one‑half ounces or more or the metric equivalent; ~~and~~

(3) all wines containing not in excess of twenty‑one percent of alcohol by volume; and

(4) all products intended for consumption in frozen, gum, gelatin, or other nonliquid form containing wine, beer, ale, porter, or other similar malt or fermented beverage greater than one-half of one percent alcohol by volume, subject to the alcohol percentage limitations set forth in items (1) through (3).”

SECTION 2. Section 61‑6‑20(1) of the 1976 Code is amended to read:

“(1)(a) ‘Alcoholic liquors’ or ‘alcoholic beverages’ means any spirituous malt, vinous, fermented, brewed (whether lager or rice beer), or other liquors or a compound or mixture of them, including, but not limited to, a powdered or crystalline alcohol, by whatever name called or known, or alcoholic consumable which contains alcohol and is used ~~as a beverage~~ for human consumption, but does not include:

(i) wine when manufactured or made for home consumption and which is not sold by the maker of the wine or by another person; or

(ii) a beverage declared by statute to be nonalcoholic or nonintoxicating.

(b) ‘Alcoholic liquor by the drink’ or ‘alcoholic beverage by the drink’ means a drink poured from a container of alcoholic liquor or alcoholic consumable, without regard to the size of the container for consumption on the premises of a business licensed pursuant to Article 5 of this chapter.

(c) ‘Powdered or crystalline alcohol’ means a powdered or crystalline product prepared or sold for either direct use or reconstitution for human consumption that contains any amount of alcohol when hydrolyzed.

(d) ‘Alcohol consumable” means all products intended for consumption in frozen, gum, gelatin, or other nonliquid form containing alcoholic liquors or alcoholic beverages greater than one-half of one percent alcohol by volume.”

SECTION 3. Section 61-6-30(3) of the 1976 Code is amended to read:

“(3) Flavoring extracts, syrups, and food products excluding alcoholic consumables; and

SECTION 4. Section 12‑21‑1010 of the 1976 Code is amended to read:

“Section 12‑21‑1010. When used in ~~this article~~ Articles 7, 9, and 11 of this chapter, the following words and terms shall have the following meanings:

(1) The word ‘wholesaler’ means any person who makes the first sale within this State or who sells or distributes any quantity of beer or wine to any other person for resale, but the term shall not include any person who produces wine in the State from fruits grown within the State by or for the manufacturer;

(2) The word ‘retailer’ means any person who sells or distributes any quantity of beer or wine to a consumer;

(3) The word ‘beer’ has the meanings provided pursuant to Section 61‑4‑10(1) ~~and~~, (2), and all of the products listed in Section 61-4-10(4) which contain ‘beer’;

(4) The word ‘wine’ ~~means all wines containing not more than twenty‑one per cent of alcohol by volume~~ has the meaning provided pursuant to Section 61-4-10(3) and includes products listed in Section 61-4-10(4) which contain ‘wine’; and

(5) (Reserved);

(6) The word ‘producer’ means a brewery or winery or a manufacturer or bottler or an importer into the United States of beer or wine, or both.”

SECTION 5. Section 12‑21‑1030 of the 1976 Code is amended to read:

“Section 12‑21‑1030. If beer be offered for sale in ~~bottles or cans~~ containers less than one gallon, there shall be levied and collected a tax of six‑tenths cents per ounce or fractional quantity thereof, and on wines offered for sale in quantities of less than one gallon there shall be levied and collected a tax of six cents for each eight ounces or fractional quantity thereof, and wine offered for sale in metric sizes a tax at the rate of twenty‑five and thirty‑five one hundredths cents per liter.”

SECTION 6. Section 12‑33‑245(A) and (D) of the 1976 Code is amended to read:

“(A) In addition to taxes imposed pursuant to the provisions of Sections 12‑33‑230, 12‑33‑240, Article 5 of this chapter, and Chapter 36, Title 12, there is imposed an excise tax equal to five percent of the gross proceeds of the sales of alcoholic liquor by the drink or serving for on‑premises consumption in an establishment licensed for sales pursuant to Article 5, Chapter 6, Title 61 or at a location holding a temporary license or permit that authorizes the sale of liquor by the drink. All proceeds of this excise tax must be deposited to the credit of the general fund of the State. Except with respect to the distribution of the revenue of this tax, this excise tax is considered to be imposed pursuant to Chapter 36, Title 12. For purposes of this subsection, ‘gross proceeds of sales’ has the meaning as provided in Section 12‑36‑90, except that the sales tax imposed under Chapter 36, Title 12 is not included in ‘gross proceeds of sales’. The term ‘gross proceeds of sales’ also includes, but is not limited to, the retail value of a complimentary or discounted beverage containing alcoholic liquor, an amount charged for ice for a drink containing alcoholic liquor, and an amount charged for a nonalcoholic beverage that is sold or used as a mixer for a drink containing alcoholic liquor. This section does not apply to nonprofit organizations that are issued a temporary permit to allow possession, sale, and consumption of alcoholic liquors pursuant to subarticle 5, Article 5, Chapter 6, Title 61.

(D) In addition to all other penalties that may be imposed for violations arising pursuant to subsection (A) of this section, a failure to report and remit the full amount of the excise tax imposed pursuant to subsection (A) on the gross proceeds of the sale of each drink or serving of alcoholic liquor sold for consumption in the establishment subjects the licensee to the following penalties:

(1) for a first violation, a civil penalty of one thousand dollars;

(2) for a second violation, a civil penalty of one thousand dollars and an automatic suspension for thirty days of the license allowing such sales; and

(3) for a third or subsequent violation, a civil penalty of five thousand dollars and a revocation of the license.”

SECTION 7. This act takes effect upon approval by the Governor.

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