

House Bill 353

By: Representatives Williams of the 4<sup>th</sup>, Dickson of the 6<sup>th</sup>, and Jerguson of the 22<sup>nd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages,  
2 so as to change certain provisions of the "Georgia Alcoholic Beverage Code"; to provide a  
3 definition of the term "flavored malt beverage"; to change certain provisions relating to the  
4 maintenance of records of alcoholic beverages manufactured, purchased, or sold; to change  
5 certain provisions relating to the filing of bonds with applications for renewal of licenses; to  
6 change certain provisions relating to tax payment and reporting by licensees; to provide a  
7 date by which taxes must be paid for distilled spirits sold by the package or disposed of by  
8 wholesale dealers; to declare certain distilled spirits to be contraband; to provide for related  
9 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages, is  
13 amended by revising Code Section 3-1-2, relating to definitions relative to alcoholic  
14 beverages, by adding a new paragraph to read as follows:

15 "(8.1) 'Flavored malt beverage' means any alcoholic beverage obtained by the  
16 fermentation of any infusion or decoction of barley, malt, hops, or any other similar  
17 product, or any combination of such products in water, containing not more than 6  
18 percent alcohol by volume to which other flavors and nonbeverage alcohol ingredients  
19 are added, provided that no more than 49 percent of the overall alcohol content of the  
20 alcoholic beverage is derived from the addition of flavors and nonbeverage alcohol  
21 ingredients. A flavored malt beverage shall be deemed a malt beverage for purposes of  
22 this title. Alcoholic beverages otherwise meeting the definition of 'flavored malt  
23 beverage' but containing more than 6 percent alcohol by volume, or in which more than  
24 49 percent of the overall alcohol content is derived from the addition of flavors and  
25 nonbeverage alcohol ingredients, shall be deemed distilled spirits for purposes of this  
26 title."

**SECTION 2.**

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28 Said title is further amended by revising subsection (a) of Code Section 3-3-6, relating to the  
29 maintenance of records by manufacturers, importers, or dealers, as follows:

30 "(a) Each manufacturer, importer, wholesale dealer, retail dealer, and retail consumption  
31 dealer shall keep and preserve, as prescribed by the commissioner, records of all alcoholic  
32 beverages manufactured, purchased, or sold ~~by him~~. The original records or a complete  
33 and legible photocopy or electronic image shall be kept on the licensed premises for a  
34 period of three years from the date of manufacture, purchase, or sale and shall at all times  
35 be ~~open to~~ available for inspection by the commissioner or any authorized agent or  
36 employee of the commissioner."

**SECTION 3.**

37  
38 Said title is further amended by revising Code Section 3-4-20, relating to levy and amount  
39 of state occupational license tax, as follows:

40 "3-4-20.

41 (a) An annual occupational license tax is imposed upon each distiller, manufacturer,  
42 broker, importer, wholesaler, fruit grower, and retail dealer of distilled spirits in this state,  
43 as follows:

- 44 (1) Upon each distiller and manufacturer ..... \$ 1,000.00
- 45 (2) Upon each wholesale dealer ..... 1,000.00
- 46 (3) Upon each importer ..... 1,000.00
- 47 (4) Upon each fruit grower ..... 500.00
- 48 (5) Upon each broker ..... 100.00
- 49 (6) Upon each retail dealer ..... 100.00

50 (b) The tax provided in this Code section shall be paid on each place of business operated.  
51 Such tax shall be paid to the commissioner when the licensee assumes control of the place  
52 of business and applies for any beverage alcohol license and annually thereafter as long as  
53 the business is operated."

**SECTION 4.**

54  
55 Said title is further amended by revising Code Section 3-4-61, relating to tax payment and  
56 reporting, as follows:

57 "3-4-61.

58 (a) Except as may otherwise be authorized in this title, the state excise taxes imposed by  
59 this part shall be paid by the licensed wholesale dealer in distilled spirits.

60 ~~(b) The taxes shall be paid on or before the tenth day of the month following the calendar~~  
61 ~~month in which the beverages are sold or disposed of within the particular municipality or~~  
62 ~~county by the wholesale dealer.~~

63 ~~(e)(b)~~ Each licensee responsible for the payment of the excise tax shall file a report  
64 itemizing for the preceding calendar month, by size and type of container, the exact  
65 quantities of distilled spirits sold during the month within the state. The licensee shall file  
66 the report with the commissioner.

67 ~~(d)(c)~~ The wholesaler shall remit to the commissioner the tax imposed by the state on the  
68 ~~tenth~~ fifteenth day of the month following the calendar month in which ~~the sales were made~~  
69 alcoholic beverages were disposed of or sold."

70 ~~(e) In order to phase in the reporting system of excise tax payment for distilled spirits and~~  
71 ~~alcohol:~~

72 ~~(1) The commissioner shall direct that no later than January 31, 1993, all persons who~~  
73 ~~made excise tax payments in respect of distilled spirits and alcohol sales in the State of~~  
74 ~~Georgia during the calendar year 1992 shall make a one-time deposit equal to the amount~~  
75 ~~of 25 percent of said tax payments. This one-time advance shall be repaid in full by the~~  
76 ~~state in equal semiannual installments over the period of 24 months following August 1,~~  
77 ~~1993; except that, in the event wholesalers made payments as provided for in this~~  
78 ~~paragraph, the commissioner shall repay such wholesalers in the form of semiannual~~  
79 ~~credits against future tax liability;~~

80 ~~(2) On February 1, 1993, or as soon thereafter as practicable, the commissioner shall~~  
81 ~~direct that an inventory be taken of stamped merchandise and tax stamps held by~~  
82 ~~manufacturers, shippers, and wholesalers. The commissioner shall issue refunds to all~~  
83 ~~manufacturers and shippers for the value of tax stamps in their possession on February~~  
84 ~~1, 1993, to be paid in 12 equal installments beginning on August 1, 1993. The~~  
85 ~~commissioner shall issue tax credits to wholesalers for stamps in inventory on February~~  
86 ~~1, 1993, which shall be applied as credits against the wholesaler's future tax liability for~~  
87 ~~the 12 month period beginning with the report due on August 10, 1993;~~

88 ~~(3) Nothing in this subsection shall be construed to impose an additional excise tax on~~  
89 ~~distilled spirits and alcohol held in inventory by wholesalers and retailers above the~~  
90 ~~excise tax paid prior to February 1, 1993; and~~

91 ~~(4) The commissioner shall adopt rules and regulations for the implementation of a~~  
92 ~~reporting method of paying distilled spirits and alcohol excise taxes as well as the~~  
93 ~~elimination of the use of any type of distilled spirits and alcohol stamp. The~~  
94 ~~commissioner shall have full authority to allow credits or make refunds as provided for~~  
95 ~~in this subsection.~~

96 (d) The commissioner shall adopt rules and regulations for the implementation of a  
 97 reporting method of paying distilled spirits and alcohol excise taxes."

98 **SECTION 5.**

99 Said title is further amended by revising Code Section 3-4-80, relating to the levy of tax on  
 100 the sale of distilled spirits by the package and the imposition of tax by both county and  
 101 municipality, by adding a new subsection to read as follows:

102 "(d) The taxes shall be paid on or before the tenth day of the month following the calendar  
 103 month in which the alcoholic beverages are sold or disposed of within the particular  
 104 municipality or county by the wholesale dealer."

105 **SECTION 6.**

106 Said title is further amended by revising Code Section 3-4-111, relating to the sale by  
 107 wholesalers to licensees and the purchase by licensees from wholesalers, to read as follows:

108 "3-4-111.

109 (a) Those persons who are duly licensed as wholesalers of distilled spirits under this title  
 110 may sell distilled spirits at wholesale prices to any person or persons licensed as provided  
 111 in this article. Persons licensed under this article may purchase distilled spirits from a  
 112 licensed wholesaler at wholesale prices.

113 (b) Any distilled spirits possessed, sold, or offered for sale by a retail dealer or retail  
 114 consumption dealer which were purchased or otherwise acquired from any person other  
 115 than a wholesale dealer authorized to do business under this chapter is declared to be  
 116 contraband and shall be seized and disposed of by the commissioner in the manner so  
 117 provided in this title."

118 **SECTION 7.**

119 Said title is further amended by revising Code Section 3-4-111.1, relating to occupational  
 120 license tax upon retail consumption dealers and the bond required of applicants for a retail  
 121 consumption dealer's license, as follows:

122 "3-4-111.1.

123 (a) An annual occupational license tax in the amount of \$100.00 is imposed upon each  
 124 retail consumption dealer in this state.

125 ~~(b) Every applicant for a retail consumption dealer's license shall file with the~~  
 126 ~~commissioner, along with each application, a bond conditioned to pay all sums which may~~  
 127 ~~become due by the applicant to this state as taxes, license fees, or otherwise by reason of~~  
 128 ~~or incident to the operation of the business for which licensure is sought and conditioned~~  
 129 ~~in order to pay all penalties which may be imposed upon the applicant for failure to comply~~

130 ~~with the laws, rules, and regulations pertaining to distilled spirits. Surety for the bond shall~~  
 131 ~~be a surety company licensed to do business in this state and the bond shall be in such form~~  
 132 ~~as may be required by the commissioner. Such bond shall be in the amount of \$2,500.00.~~  
 133 (b) The tax provided in this Code section shall be paid on each place of business operated.  
 134 Such tax shall be paid to the commissioner when the licensee assumes control of the place  
 135 of business and applies for any beverage alcohol license and annually thereafter as long as  
 136 the business is operated."

137 **SECTION 8.**

138 Said title is further amended by revising Code Section 3-5-20, relating to levy and amount  
 139 of state occupational license tax upon malt beverage brewer, manufacturer, broker, importer,  
 140 wholesaler, and retail dealers, as follows:

141 "3-5-20.

142 (a) An annual occupational license tax is imposed upon each brewer, manufacturer, broker,  
 143 importer, wholesaler, and retail dealer of beer in this state, as follows:

- 144 (1) Upon each brewer . . . . . \$ 1,000.00
- 145 (2) Upon each wholesale dealer . . . . . 500.00
- 146 (3) Upon each importer . . . . . 500.00
- 147 (4) Upon each broker . . . . . 50.00
- 148 (5) Upon each retail dealer . . . . . 50.00
- 149 (6) Upon each brewpub operator . . . . . 1,000.00

150 ~~(b) The tax provided in this Code section shall be paid on each place of business operated~~  
 151 ~~and shall be paid to the commissioner when the licensee enters business and annually~~  
 152 ~~thereafter so long as the business is operated and conducted.~~

153 (b) The tax provided in this Code section shall be paid on each place of business operated.  
 154 Such tax shall be paid to the commissioner when the licensee assumes control of the place  
 155 of business and applies for any beverage alcohol license and annually thereafter as long as  
 156 the business is operated."

157 **SECTION 9.**

158 Said title is further amended by revising Code Section 3-6-20, relating to levy and amount  
 159 of tax, as follows:

160 "3-6-20.

161 An annual occupational license tax is imposed upon each winery, manufacturer, broker,  
 162 importer, wholesaler, and retail dealer of wine in this state, as follows:

163	(1) Upon each winery and manufacturer . . . . .	\$ 1,000.00
164	(2) Upon each wholesale dealer . . . . .	500.00
165	(3) Upon each importer . . . . .	500.00
166	(4) Upon each broker . . . . .	50.00
167	(5) Upon each retail dealer . . . . .	50.00
168	<u>(b) The tax provided in this Code section shall be paid on each place of business operated.</u>	
169	<u>Such tax shall be paid to the commissioner when the licensee assumes control of the place</u>	
170	<u>of business and applies for any beverage alcohol license and annually thereafter as long as</u>	
171	<u>the business is operated."</u>	

**SECTION 10.**

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173 This Act shall become effective upon its approval by the Governor or upon its becoming law  
174 without such approval.

**SECTION 11.**

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176 All laws and parts of laws in conflict with this Act are repealed.