

The Senate Regulated Industries and Utilities Committee offered the following substitute to HB 115:

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 provide for the regulation of alcoholic beverages; to change certain provisions of the  
3 "Georgia Alcoholic Beverage Code"; to change certain provisions relating to the maintenance  
4 of records of alcoholic beverages manufactured, purchased, or sold; to make certain  
5 time-of-sale provisions applicable to counties the same as to municipalities; to revise certain  
6 provisions relating to the issuance of licenses for manufacturing, distributing, and selling of  
7 alcoholic beverages and the conduct permitted by those holding such licenses; to authorize  
8 samplings for consumption by retail dealers and employees of retail dealers to be conducted  
9 by manufacturers and wholesalers of alcoholic beverages and specifically distilled spirits and  
10 consumed by retail dealers and retail dealers' employees under certain conditions; to change  
11 certain provisions relating to the filing of bonds with applications for renewal of licenses; to  
12 change certain provisions relating to tax payment and reporting by licensees; to provide a  
13 date by which taxes must be paid for distilled spirits sold by the package or disposed of by  
14 wholesale dealers; to declare certain distilled spirits to be contraband; to establish the method  
15 of measuring distances from existing retail package liquor stores that new retail package  
16 liquor stores are permitted to be located; to prohibit the issuance of state licenses to  
17 businesses to be located in certain areas; to provide for related matters; to repeal conflicting  
18 laws; and for other purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

20 Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages, is  
21 amended by revising subsection (a) of Code Section 3-3-6, relating to the maintenance of  
22 records by manufacturers, importers, or dealers, as follows:

23 "(a) Each manufacturer, importer, wholesale dealer, retail dealer, and retail consumption  
24 dealer shall keep and preserve, as prescribed by the commissioner, records of all alcoholic  
25 beverages manufactured, purchased, or sold by him. The original records or a complete  
26

27 and legible photocopy or electronic image shall be kept on the licensed premises for a  
 28 period of three years from the date of manufacture, purchase, or sale and shall at all times  
 29 be ~~open to~~ available for inspection by the commissioner or any authorized agent or  
 30 employee of the commissioner."

31 **SECTION 2.**

32 Said title is further amended in subsection (n) of Code Section 3-3-7, relating to authorization  
 33 and regulation of sales on certain days, by designating the existing provisions of said  
 34 subsection as paragraph (1) and adding a new paragraph to read as follows:

35 "(2) The provisions of paragraph (1) of this subsection shall apply to counties the same  
 36 as to municipalities."

37 **SECTION 3.**

38 Said title is further amended by revising Code Section 3-3-26, relating to allowing or  
 39 permitting of breaking of packages or drinking of contents thereof on premises, as follows:

40 "3-3-26.

41 (a) No retail dealer shall knowingly and intentionally allow or permit the breaking of any  
 42 package or packages containing alcoholic beverages on the premises where sold or allow  
 43 or permit the drinking of the contents of such package or packages on the premises where  
 44 sold.

45 (b) This Code section shall not apply with respect to sales pursuant to a license for  
 46 consumption on the premises.

47 (c) Nothing in this Code section shall prohibit a representative or salesperson of a  
 48 manufacturer or wholesaler from opening a container of alcoholic beverages on the  
 49 premises of a retail dealer for the purposes of providing a sampling of such alcoholic  
 50 beverage product to a retail dealer or retail dealer's employee or the drinking or  
 51 consumption of an alcoholic beverage product by a retail dealer or retail dealer's employee  
 52 when done so for the purpose of sampling such alcoholic beverage product, provided that  
 53 such sampling of alcoholic beverage products shall be done in a retail dealer's office,  
 54 storage room, or other area of the premises closed to the public and in the presence of the  
 55 representative or salesperson of the manufacturer or wholesaler."

56 **SECTION 4.**

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

59 "3-4-20.

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

- 63 (1) Upon each distiller and manufacturer . . . . . \$ 1,000.00
- 64 (2) Upon each wholesale dealer . . . . . 1,000.00
- 65 (3) Upon each importer . . . . . 1,000.00
- 66 (4) Upon each fruit grower . . . . . 500.00
- 67 (5) Upon each broker . . . . . 100.00
- 68 (6) Upon each retail dealer . . . . . 100.00

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

73 **SECTION 5.**

74 Said title is further amended by revising Code Section 3-4-25, relating to authorization of  
75 the holder of a retail dealer's license to sell only unbroken packages and the prohibition of  
76 breaking of packages or drinking of the contents thereof on premises, as follows:

77 "3-4-25.

78 (a) A retail dealer's license shall authorize the holder to sell distilled spirits only in the  
79 original and unbroken package or packages, which package or packages shall contain not  
80 less than 50 milliliters each.

81 (b) The license shall not permit the breaking of the package or packages on the premises  
82 where sold and shall not permit the drinking of the contents of the package or packages on  
83 the premises where sold.

84 (c) Nothing in this Code section shall prohibit a representative or salesperson of a  
85 manufacturer or wholesaler from opening a container of distilled spirits on the premises of  
86 a retail dealer for the purposes of providing a sampling of such distilled spirits to a retail  
87 dealer or retail dealer's employee or the drinking or consumption of distilled spirits by a  
88 retail dealer or retail dealer's employee when done so for the purpose of sampling such  
89 distilled spirits, provided that such sampling of distilled spirits shall be done in a retail  
90 dealer's office, storage room, or other area of the premises closed to the public and in the  
91 presence of the representative or salesperson of the manufacturer or wholesaler."

**SECTION 6.**

Said title is further amended by revising Code Section 3-4-49, relating to the adoption of rules and regulations and the determination of location of distilleries or businesses licensed by municipal or county governing authorities, as follows:

"3-4-49.

(a) A municipality or county may adopt all reasonable rules and regulations, consistent with this title, as may fall within the police powers of the municipality or county to regulate any business described in this chapter; ~~provided, however, that, except as otherwise provided in this Code section.~~

~~(b) on~~ On and after July 1, 1997 ~~through June 30, 2009~~, no municipality or county shall authorize the location of a new retail package liquor licensed place of business or the relocation of an existing retail package liquor licensed place of business engaged in the retail package sales of distilled spirits within 500 yards of any other business licensed to sell package liquor at retail, as measured by the most direct route of travel on the ground; provided, however, that this limitation shall not apply to any hotel licensed under this chapter. The restriction provided for in this subsection shall not apply at any location for which a license has been issued prior to July 1, 1997, nor to the renewal of such license. Nor shall the restriction of this subsection apply to any location for which a new license is applied for if the sale of distilled spirits was lawful at such location at any time during the 12 months immediately preceding such application.

~~(b)~~(c)(1) On and after July 1, 2009, no municipality or county shall authorize the location of a new retail package liquor licensed place of business or the relocation of an existing retail package liquor licensed place of business engaged in the retail package sales of distilled spirits within 500 yards of any other business licensed to sell package liquor at retail in this state as measured in a straight line, regardless of any structural impediments, using the portion of the building of the place of business to be licensed closest to any portion of the building of the retail package business currently licensed as the starting point and using the portion of the building of the retail package business currently licensed closest to any portion of the building of the place of business to be licensed as the ending point; provided, however, that this limitation shall not apply to any hotel licensed under this chapter.

(2) The restriction provided for in this subsection shall not apply at any location for which:

(A) A license has been issued prior to July 1, 2009, nor to the renewal of such license;

or

(B) A new license is applied for if the sale of distilled spirits was lawful at such location at any time during the 12 months immediately preceding such application.

129 (3) If there is a body of water 50 acres or more in size located between the two retail  
 130 businesses licensed to sell package liquor at retail in this state, then the 500 yard  
 131 restriction provided for in paragraph (1) of this subsection shall be measured by the most  
 132 direct route of travel on the ground.

133 (d)(1) As used in this subsection, the term 'adjacent property' shall mean abutting  
 134 property solely owned as of July 1, 2009, by the applicant for the license who is also the  
 135 owner of the property on which the existing retail package business is currently located.

136 (2) Subsection (c) of this Code section shall not apply to the relocation of an existing  
 137 retail package liquor licensed place of business to adjacent property; provided that the  
 138 relocated package liquor licensed place of business is within 500 yards of the existing  
 139 retail package liquor licensed place of business as it exists on July 1, 2009, as measured  
 140 in a straight line, regardless of any structural impediments, using the portion of the  
 141 building of the relocated place of business to be licensed closest to any portion of the  
 142 building of the retail package business currently licensed as the starting point and using  
 143 the portion of the building of the retail package business currently licensed closest to any  
 144 portion of the building of the relocated place of business as the ending point.

145 (e) All municipal and county authorities issuing licenses shall within their respective  
 146 jurisdictions have authority to determine the location of any distillery, wholesale business,  
 147 or retail business licensed by them, not inconsistent with this title.

148 (f) No state license shall be issued pursuant to this title to any retail package liquor place  
 149 of business whose location would violate this Code section."

## 150 SECTION 7.

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

153 "3-4-61.

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

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

159 ~~(c)~~(b) Each licensee responsible for the payment of the excise tax shall file a report  
 160 itemizing for the preceding calendar month, by size and type of container, the exact  
 161 quantities of distilled spirits sold during the month within the state. The licensee shall file  
 162 the report with the commissioner.

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

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

168 ~~(1) The commissioner shall direct that no later than January 31, 1993, all persons who~~  
 169 ~~made excise tax payments in respect of distilled spirits and alcohol sales in the State of~~  
 170 ~~Georgia during the calendar year 1992 shall make a one-time deposit equal to the amount~~  
 171 ~~of 25 percent of said tax payments. This one-time advance shall be repaid in full by the~~  
 172 ~~state in equal semiannual installments over the period of 24 months following August 1,~~  
 173 ~~1993; except that, in the event wholesalers made payments as provided for in this~~  
 174 ~~paragraph, the commissioner shall repay such wholesalers in the form of semiannual~~  
 175 ~~credits against future tax liability;~~

176 ~~(2) On February 1, 1993, or as soon thereafter as practicable, the commissioner shall~~  
 177 ~~direct that an inventory be taken of stamped merchandise and tax stamps held by~~  
 178 ~~manufacturers, shippers, and wholesalers. The commissioner shall issue refunds to all~~  
 179 ~~manufacturers and shippers for the value of tax stamps in their possession on February~~  
 180 ~~1, 1993, to be paid in 12 equal installments beginning on August 1, 1993. The~~  
 181 ~~commissioner shall issue tax credits to wholesalers for stamps in inventory on February~~  
 182 ~~1, 1993, which shall be applied as credits against the wholesaler's future tax liability for~~  
 183 ~~the 12 month period beginning with the report due on August 10, 1993;~~

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

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

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

194 **SECTION 8.**

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

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

201 **SECTION 9.**

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

204 "3-4-111.

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

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

214 **SECTION 10.**

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

218 "3-4-111.1.

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

221 ~~(b) Every applicant for a retail consumption dealer's license shall file with the~~  
 222 ~~commissioner, along with each application, a bond conditioned to pay all sums which may~~  
 223 ~~become due by the applicant to this state as taxes, license fees, or otherwise by reason of~~  
 224 ~~or incident to the operation of the business for which licensure is sought and conditioned~~  
 225 ~~in order to pay all penalties which may be imposed upon the applicant for failure to comply~~  
 226 ~~with the laws, rules, and regulations pertaining to distilled spirits. Surety for the bond shall~~  
 227 ~~be a surety company licensed to do business in this state and the bond shall be in such form~~  
 228 ~~as may be required by the commissioner. Such bond shall be in the amount of \$2,500.00.~~

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

233  
234  
235  
236  
237  
238  
239  
240  
241  
242  
243  
244  
245  
246  
247  
248  
249  
250  
251  
252  
  
253  
254  
255  
256  
257  
258  
259  
260  
261  
262  
263  
264  
265  
266  
267

**SECTION 11.**

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

"3-5-20.

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

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

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

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

**SECTION 12.**

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

"3-6-20.

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

- (1) Upon each winery and manufacturer . . . . . \$ 1,000.00
- (2) Upon each wholesale dealer . . . . . 500.00
- (3) Upon each importer . . . . . 500.00
- (4) Upon each broker . . . . . 50.00
- (5) Upon each retail dealer . . . . . 50.00

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



268 **SECTION 13.**  
269 All laws and parts of laws in conflict with this Act are repealed.