

House Bill 568

By: Representatives Stephens of the 164th, Martin of the 47th, Bearden of the 68th, Ehrhart of the 36th, Maddox of the 127th, and others

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 limited exceptions to the three-tier distribution of alcoholic beverages;
3 to provide for definitions; to provide for an annual license fee for a craft brewery; to change
4 certain provisions relating to the limited exception to the three-tier distribution of alcoholic
5 beverages for a brewpub; to require an affidavit of a brewpub licensee under certain
6 circumstances; to provide for the creation of a limited exception to the three-tier distribution
7 of alcoholic beverages for a craft brewery; to provide for related matters; to repeal conflicting
8 laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages, is
12 amended by revising Code Section 3-1-2, relating to definitions, as follows:

13 "3-1-2.

14 As used in this title, the term:

15 (1) 'Alcohol' means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from
16 whatever source or by whatever process produced.

17 (2) 'Alcoholic beverage' means and includes all alcohol, distilled spirits, beer, malt
18 beverage, wine, or fortified wine.

19 (3) 'Brewpub' means any eating establishment in which ~~beer or~~ malt beverages are
20 manufactured or brewed, subject to the barrel production limitation prescribed in Code
21 Section 3-5-36 for retail consumption on the premises and solely in draft form. As used
22 in this ~~article~~ paragraph, the term 'eating establishment' means an establishment which
23 is licensed to sell distilled spirits, malt beverages, or wines and which derives at least 50
24 percent of its total annual gross food and beverage sales from the sale of prepared meals
25 or food.

26 (4) 'Broker' means any person who purchases or obtains an alcoholic beverage from an
 27 importer, distillery, brewery, or winery and sells the alcoholic beverage to another broker,
 28 importer, or wholesaler without having custody of the alcoholic beverage or maintaining
 29 a stock of the alcoholic beverage.

30 (5) 'Commissioner' means the state revenue commissioner.

31 (6) 'County or municipality' means those political subdivisions of this state as defined
 32 by law and includes any form of political subdivision consolidating a county with one or
 33 more municipalities.

34 (7) 'Craft brewery' means a place where malt beverages are manufactured or brewed,
 35 subject to the barrel production limitation prescribed in Code Section 3-5-39, solely for
 36 retail sale in unbroken packages on the premises.

37 ~~(7)~~(8) 'Department' means the Department of Revenue.

38 ~~(8)~~(9) 'Distilled spirits' means any alcoholic beverage obtained by distillation or
 39 containing more than 21 percent alcohol by volume, including, but not limited to, all
 40 fortified wines.

41 ~~(9)~~(10) 'Fortified wine' means any alcoholic beverage containing more than 21 percent
 42 alcohol by volume made from fruits, berries, or grapes either by natural fermentation or
 43 by natural fermentation with brandy added. The term includes, but is not limited to,
 44 brandy.

45 ~~(10)~~(11) 'Gallon' or 'wine gallon' means a United States gallon of liquid measure
 46 equivalent to the volume of 231 cubic inches or the nearest equivalent metric
 47 measurement.

48 ~~(10.1)~~(12) 'Hard cider' means an alcoholic beverage obtained by the fermentation of the
 49 juice of apples, containing not more than 6 percent alcohol by volume, including, but not
 50 limited to, flavored or carbonated cider. For purposes of this title, hard cider shall be
 51 deemed a malt beverage. The term does not include 'sweet cider.'

52 ~~(11)~~(13) 'Importer' means any person who imports an alcoholic beverage into this state
 53 from a foreign country and sells the alcoholic beverage to another importer, broker, or
 54 wholesaler and who maintains a stock of the alcoholic beverage.

55 ~~(12)~~(14) 'Individual' means a natural person.

56 ~~(13)~~(15) 'Malt beverage' means any alcoholic beverage obtained by the fermentation of
 57 any infusion or decoction of barley, malt, hops, or any other similar product, or any
 58 combination of such products in water, containing not more than 14 percent alcohol by
 59 volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer.
 60 The term does not include sake, known as Japanese rice wine.

61 ~~(14)~~(16) 'Manufacturer' means any maker, producer, or bottler of an alcoholic beverage.

62 The term also means:

63 (A) In the case of distilled spirits, any person engaged in distilling, rectifying, or
64 blending any distilled spirits;

65 (B) In the case of malt beverages, any brewer; and

66 (C) In the case of wine, any vintner.

67 ~~(15)~~(17) 'Military reservation' means a duly commissioned post, camp, base, or station
68 of a branch of the armed forces of the United States located on territory within this state
69 which has been ceded to the United States.

70 ~~(16)~~(18) 'Package' means a bottle, can, keg, barrel, or other original consumer container.

71 ~~(17)~~(19) 'Person' means any individual, firm, partnership, cooperative, nonprofit
72 membership corporation, joint venture, association, company, corporation, agency,
73 syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination
74 acting as a unit, body politic, or political subdivision, whether public, private, or
75 quasi-public.

76 ~~(18)~~(20) 'Retail consumption dealer' means any person who sells distilled spirits for
77 consumption on the premises at retail only to consumers and not for resale.

78 ~~(19)~~(21) 'Retailer' or 'retail dealer' means, except as to distilled spirits, any person who
79 sells alcoholic beverages, either in unbroken packages or for consumption on the
80 premises, at retail only to consumers and not for resale. With respect to distilled spirits,
81 the term means any person who sells distilled spirits in unbroken packages at retail only
82 to consumers and not for resale.

83 ~~(20)~~(22) 'Shipper' means any person who ships an alcoholic beverage from outside this
84 state.

85 ~~(21)~~(23) 'Standard case' means six containers of 1.75 liters, 12 containers of 750
86 milliliters, 12 containers of one liter, 24 containers of 500 milliliters, 24 containers of 375
87 milliliters, 48 containers of 200 milliliters, or 120 containers of 50 milliliters.

88 ~~(22)~~(24) 'Taxpayer' means any person made liable by law to file a return or to pay tax.

89 ~~(23)~~(25) 'Wholesaler' or 'wholesale dealer' means any person who sells alcoholic
90 beverages to other wholesale dealers, to retail dealers, or to retail consumption dealers.

91 ~~(24)~~(26) 'Wine' means any alcoholic beverage containing not more than 21 percent
92 alcohol by volume made from fruits, berries, or grapes either by natural fermentation or
93 by natural fermentation with brandy added. The term includes, but is not limited to, all
94 sparkling wines, champagnes, combinations of such beverages, vermouths, special
95 natural wines, rectified wines, and like products. The term does not include cooking wine
96 mixed with salt or other ingredients so as to render it unfit for human consumption as a
97 beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing
98 process when it conforms to the definition of wine contained in this Code section."

99 **SECTION 2.**

100 Said title is further amended by adding a new paragraph to subsection (a) of Code Section
101 3-5-20, relating to levy and amount of state occupational license tax, to read as follows:

102 "(7) Upon each craft brewery operator 1000.00"

103 **SECTION 3.**

104 Said title is further amended by revising Code Section 3-5-36, relating to the brewpub
105 exception to the three-tier distribution system, as follows:

106 "3-5-36.

107 A limited exception to the provisions of Code Sections 3-5-29 through 3-5-32 providing
108 a three-tier system for the distribution and sale of malt beverages shall exist for owners and
109 operators of brewpubs, subject to the following terms and conditions:

110 (1) No individual shall be permitted to own or operate a brewpub without first obtaining
111 a proper license from the commissioner in the manner provided in this title, and each
112 brewpub licenseholder shall comply with all other applicable state and local license
113 requirements;

114 (2) A brewpub license authorizes the holder of such license to:

115 (A) Manufacture on the licensed premises not more than 5,000 barrels of ~~beer~~ malt
116 beverage in a calendar year solely for retail sale on the premises and solely in draft
117 form;

118 (B) Operate an eating establishment, as that term is defined in paragraph (3) of Code
119 Section 3-1-2, that shall be the sole retail outlet for such ~~beer~~ malt beverages and may
120 offer for sale any other alcoholic beverages produced by other manufacturers which are
121 authorized for retail sale under this title, including ~~wine~~, distilled spirits; upon obtaining
122 a retail consumption dealer's license, and wine and malt beverages, provided that such
123 alcoholic beverages are purchased from a licensed wholesaler for consumption on the
124 premises only; and, provided, further, that in addition to draft ~~beer~~ malt beverage
125 manufactured on the premises, each brewpub licensee shall obtain a retailer's license
126 for the same premises and shall offer for sale commercially available canned or bottled
127 malt beverages from licensed wholesalers; and

128 (C) Notwithstanding any other provision of this paragraph, sell up to a maximum of
129 500 barrels annually of such ~~beer~~ malt beverages to licensed wholesale dealers for
130 distribution to retailers and retail consumption dealers;

131 (3) ~~Possession of a brewpub license shall not prevent the holder of such license from~~
132 ~~obtaining a retail consumption dealer's license or a retailer's license for the same~~
133 ~~premises;~~

- 134 ~~(4)~~ A brewpub license ~~does~~ shall not authorize the holder of such license to sell alcoholic
 135 beverages by the package for consumption off the premises;
- 136 ~~(5)~~(4) A brewpub licensee shall not offer or permit any free sampling of ~~beer~~ malt
 137 beverages by its customers on the premises of a brewpub;
- 138 ~~(6)~~(5) The commissioner shall not issue a brewpub license if the brewpub premises are
 139 located in a county or municipality in which the sale of alcoholic beverages is prohibited;
 140 ~~and~~
- 141 ~~(7)~~(6) A brewpub licensee shall:
- 142 (A) Pay all state and local license fees and excise taxes applicable to individuals
 143 licensed by this state as manufacturers, retailers, and, where applicable, wholesalers
 144 under this title;
- 145 (B) At the request of the commissioner, provide an irrevocable letter of credit or an
 146 Irrevocable Standby Financial Guarantee Bond in favor of the State of Georgia in an
 147 amount sufficient to guarantee such brewpub licensee's estimated tax liability for the
 148 first year of operation; and
- 149 (C) Measure ~~beer~~ malt beverages manufactured on the premises and otherwise comply
 150 with applicable regulations respecting excise and enforcement tax determination of
 151 such ~~beer~~ malt beverages as required by this title; and
- 152 (7) A brewpub licensee shall provide an affidavit with each application for renewal
 153 certifying that the brewpub meets all the requirements of an eating establishment as that
 154 term is defined in paragraph (3) of Code Section 3-1-2."

155 SECTION 4.

156 Said title is further amended by adding a new Code section to read as follows:

157 "3-5-39.

158 A limited exception to the provisions of Code Sections 3-5-29 through 3-5-32 providing
 159 a three-tier system for the distribution and sale of malt beverages shall exist for owners and
 160 operators of craft breweries, subject to the following terms and conditions:

161 (1) No individual shall be permitted to own or operate a craft brewery without first
 162 obtaining a proper license from the commissioner in the manner provided in this title, and
 163 each craft brewery licenseholder shall comply with all other applicable state and local
 164 license requirements;

165 (2) A craft brewery license authorizes the holder of such license to:

166 (A) Manufacture on the licensed premises not more than 10,000 barrels of malt
 167 beverages in a calendar year solely for retail sale in unbroken packages on the premises;

168 (B) Notwithstanding any other provision of this paragraph, may sell malt beverages
 169 manufactured on the licensed premises equal to a maximum of 10,000 barrels annually.

170 Such quantity of malt beverages may be sold at retail in unbroken packages on the
171 premises, to licensed wholesale dealers for distribution, or to a combination of both;
172 and

173 (C) Upon obtaining a retailer's license for the same premises, offer for sale any wine
174 or malt beverage produced by other manufacturers which are authorized for retail sale
175 under this title, provided that such alcoholic beverages are purchased from a licensed
176 wholesaler for sale in unbroken packages on the premises;

177 (3) Possession of a craft brewery license shall not prevent the holder of such license from
178 obtaining a retailer's license for the same premises;

179 (4) A craft brewery license shall not authorize the holder of such license to sell alcoholic
180 beverages for consumption on the premises;

181 (5) A craft brewery licensee may offer or permit free sampling of malt beverages
182 manufactured by the craft brewery to its customers on the premises in a tasting room that
183 is separate from the location in which sales of unbroken packages occur;

184 (6) The commissioner shall not issue a craft brewery license if the craft brewery
185 premises are located in a county or municipality in which the sale of alcoholic beverages
186 is prohibited; and

187 (7) A craft brewery licensee shall:

188 (A) Pay all state and local license fees and excise taxes applicable to individuals
189 licensed by this state as manufacturers, retailers, and, where applicable, wholesalers
190 under this title;

191 (B) At the request of the commissioner, provide an irrevocable letter of credit or an
192 Irrevocable Standby Financial Guarantee Bond in favor of the State of Georgia in an
193 amount sufficient to guarantee such craft brewery licensee's estimated tax liability for
194 the first year of operation; and

195 (C) Measure malt beverages manufactured on the premises and otherwise comply with
196 applicable regulations respecting excise and enforcement tax determination of such
197 malt beverages as required by this title."

198 **SECTION 5.**

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