

The Senate Regulated Industries and Utilities Committee offered the following substitute to HB 1065:

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 relating to tax payment and reporting by licensees; to
3 provide a date by which taxes must be paid for distilled spirits sold by the package or
4 disposed of by wholesale dealers; to provide for electronic record keeping; to declare certain
5 distilled spirits to be contraband; to change certain provisions relating to authorization of the
6 levy of tax on the sale of distilled spirits by the package and imposition of tax by both
7 counties and municipalities; to provide for related matters; to provide for an effective date;
8 to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages, is
12 amended by revising Code Section 3-2-11, relating to penalties for failure to file reports or
13 returns or to pay tax or fee, procedure for assessment of taxes due, penalties, and interest, as
14 follows:

15 "3-2-11.

16 Except as otherwise provided in this title:

17 (1) When any person required to file a report as provided by this title fails to file the
18 report within the time prescribed, he or she shall be assessed a penalty of \$50.00 for each
19 failure to file.

20 (2) In the event the commissioner determines, upon inspection of the invoices, books,
21 and records of a licensed wholesale dealer or importer or from any other information
22 obtained by him or her or his or her authorized agents, that the licensed wholesale dealer
23 or importer has not paid the proper tax or the proper amount of taxes, the wholesale
24 dealer or importer shall be assessed for the taxes due. ~~After assessment, the person~~
25 ~~assessed shall~~ and be provided with notice and an opportunity for a hearing as provided
26 for contested cases by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

27 (3) When any person fails to pay any tax or license fee due as provided by this title, the
 28 person shall be assessed a penalty the same as that provided for in Code Section 48-2-44.

29 (4) When any person fails to file a return, files a false or fraudulent return, or when a tax
 30 deficiency or any part of a tax deficiency is due to a fraudulent intent to evade any tax
 31 imposed or authorized by this title, the person shall be assessed a specific penalty of 50
 32 percent of the tax due.

33 (5) When any person fails to pay the tax or any part of the tax due as provided by this
 34 title, the person shall pay interest on the amount of unpaid tax at the rate of 1 percent per
 35 month from the time the tax became due until paid or at the rate specified in Code Section
 36 48-2-40, whichever is greater. Interest shall be computed on a monthly basis for any
 37 portion of a month during which payment is remains delinquent.

38 (6) All penalties and interest imposed by this title shall be payable to and collected by
 39 the commissioner in the same manner as if they were a part of the taxes imposed by this
 40 title."

41 SECTION 2.

42 Said title is further amended by revising Code Section 3-3-6, relating to the maintenance of
 43 records as to manufacture, purchase, or sale of alcoholic beverages by manufacturers,
 44 importers, or dealers, and disposal of records, as follows:

45 "3-3-6.

46 (a) Each manufacturer, importer, wholesale dealer, retail dealer, and retail consumption
 47 dealer shall keep and preserve, as prescribed by the commissioner, records of all alcoholic
 48 beverages manufactured, purchased, or sold ~~by him~~. The original records or a complete and
 49 legible photocopy or electronic image shall be kept for a period of three years from the date
 50 of manufacture, purchase, or sale and shall at all times be ~~open to~~ made available for
 51 inspection by the commissioner, or any authorized agent or employee of the commissioner,
 52 or any authorized agent or employee of the licensing authority of any municipality or
 53 county which has issued a license to such manufacturer, importer, wholesale dealer, retail
 54 dealer, or retail consumption dealer. Invoices sufficient to cover current inventory at a
 55 licensed location shall be maintained at that licensed location and made available for
 56 immediate inspection. All other records may be kept at a locality other than the licensed
 57 location and shall be provided for inspection within two business days after receipt of
 58 notification from the commissioner, the commissioner's authorized agents or employees,
 59 or the authorized agents or employees of the licensing authority of any municipality or
 60 county which has issued a license to the manufacturer, importer, wholesale dealer, retail
 61 dealer, or retail consumption dealer to make such records available.

62 (b) The commissioner may authorize by rule the disposal of records maintained pursuant
 63 to subsection (a) of this Code section, prior to the expiration of the specified three-year
 64 period, when he or she is satisfied as to their contents or otherwise determines that the
 65 maintenance of the records is no longer necessary."

66 SECTION 3.

67 Said title is further amended by revising Code Section 3-4-61, relating to payment of tax and
 68 report, as follows:

69 "3-4-61.

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

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

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

79 ~~(d)~~(c) The wholesaler shall remit to the commissioner the tax imposed by the state on the
 80 ~~tenth~~ fifteenth day of the month following the calendar month in which the ~~sales were made~~
 81 distilled spirits were disposed of or sold.

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

84 ~~(1) The commissioner shall direct that no later than January 31, 1993, all persons who~~
 85 ~~made excise tax payments in respect of distilled spirits and alcohol sales in the State of~~
 86 ~~Georgia during the calendar year 1992 shall make a one-time deposit equal to the amount~~
 87 ~~of 25 percent of said tax payments. This one-time advance shall be repaid in full by the~~
 88 ~~state in equal semiannual installments over the period of 24 months following August 1,~~
 89 ~~1993; except that, in the event wholesalers made payments as provided for in this~~
 90 ~~paragraph, the commissioner shall repay such wholesalers in the form of semiannual~~
 91 ~~credits against future tax liability;~~

92 ~~(2) On February 1, 1993, or as soon thereafter as practicable, the commissioner shall~~
 93 ~~direct that an inventory be taken of stamped merchandise and tax stamps held by~~
 94 ~~manufacturers, shippers, and wholesalers. The commissioner shall issue refunds to all~~
 95 ~~manufacturers and shippers for the value of tax stamps in their possession on February~~
 96 ~~1, 1993, to be paid in 12 equal installments beginning on August 1, 1993. The~~
 97 ~~commissioner shall issue tax credits to wholesalers for stamps in inventory on February~~

98 ~~1, 1993, which shall be applied as credits against the wholesaler's future tax liability for~~
 99 ~~the 12 month period beginning with the report due on August 10, 1993;~~
 100 ~~(3) Nothing in this subsection shall be construed to impose an additional excise tax on~~
 101 ~~distilled spirits and alcohol held in inventory by wholesalers and retailers above the~~
 102 ~~excise tax paid prior to February 1, 1993; and~~
 103 ~~(4)(d) The commissioner shall adopt rules and regulations for the implementation of a~~
 104 ~~reporting method of paying excise taxes on distilled spirits and alcohol excise taxes as well~~
 105 ~~as the elimination of the use of any type of distilled spirits and alcohol stamp. The~~
 106 ~~commissioner shall have full authority to allow credits or make refunds as provided for in~~
 107 ~~this subsection."~~

108 **SECTION 4.**

109 Said title is further amended by revising Code Section 3-4-80, relating to authorization of the
 110 levy of tax on the sale of distilled spirits by the package and imposition of tax by both county
 111 and municipality located within the county, as follows:

112 "3-4-80.

113 (a) The governing authority of each ~~municipality or county~~ or municipality where the sale
 114 of distilled spirits by the package is permitted by Article 3 of this chapter may at its
 115 discretion levy an excise tax on the sale of distilled spirits by the package at either the
 116 wholesale or retail level, ~~which~~ and such tax shall not exceed 22¢ per liter of distilled
 117 spirits, excluding fortified wine, and a proportionate tax at the same rate on all fractional
 118 parts of a liter.

119 (b) The rate of taxation, the manner of its imposition, payment, and collection, and all
 120 other procedures related to the tax authorized by subsection (a) of this Code section shall
 121 be as provided for by each county or municipality electing to exercise the power conferred
 122 by subsection (a) of this Code section; provided, however, that the tax shall be paid on or
 123 before the tenth day of the month following the calendar month in which distilled spirits
 124 are disposed of or sold within the particular county or municipality by a wholesale dealer.

125 (c) No county excise tax shall be imposed, levied, or collected in any portion of a county
 126 in which a municipality within the county is imposing the same tax on distilled spirits sold
 127 by the package."

128 **SECTION 5.**

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

131 **SECTION 6.**
132 All laws and parts of laws in conflict with this Act are repealed.