

Senate Bill 169

By: Senators Staton of the 18th, Tolleson of the 20th, Unterman of the 45th, Harbison of the 15th and Jones of the 25th

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 retail dealers and retail consumption dealers to offer samples of alcoholic  
3 beverages; to provide for definitions; to provide for terms and conditions as to samplings and  
4 tasting events; to provide for the promulgation of rules and regulations by the state revenue  
5 commissioner; to revise provisions for purposes of conformity; to provide for related matters;  
6 to provide effective dates; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages, is  
10 amended by revising Code Section 3-3-26, relating to allowing or permitting the breaking  
11 of packages or drinking of contents thereof on premises, as follows:

12 "3-3-26.

13 ~~No~~ Except as provided in Chapter 15 of this title, no retail dealer shall knowingly and  
14 intentionally allow or permit the breaking of any package or packages containing alcoholic  
15 beverages on the premises where sold or allow or permit the drinking of the contents of  
16 such package or packages on the premises where sold. This Code section shall not apply  
17 ~~with respect~~ to sales pursuant to a license for consumption on the premises."

18 **SECTION 2.**

19 Said title is further amended by revising Code section 3-4-25, relating to a holder of a retail  
20 dealer's license authorized to sell only unbroken packages and prohibition against the  
21 breaking of packages or drinking of the contents thereof on the premises, as follows:

22 "3-4-25.

23 (a) Except as provided in Chapter 15 of this title, a ~~A~~ retail dealer's license shall authorize  
24 the holder to sell distilled spirits only in the original and unbroken package or packages,  
25 which ~~package or packages~~ shall contain not less than 50 milliliters each.

26 (b) ~~The~~ Except as provided in Chapter 15 of this title, the license shall not permit the  
 27 breaking of the package or packages on the premises where sold and shall not permit the  
 28 drinking of the contents of the package or packages on the premises where sold."

29

### SECTION 3.

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

32 "3-5-36.

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

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

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

41 (A) Manufacture on the licensed premises not more than 10,000 barrels of beer in a  
 42 calendar year solely for retail sale on the premises;

43 (B) Operate an eating establishment that shall be the sole retail outlet for such beer and  
 44 may offer for sale any other alcoholic beverages produced by other manufacturers  
 45 which are authorized for retail sale under this title, including wine, distilled spirits, and  
 46 malt beverages, provided that such alcoholic beverages are purchased from a licensed  
 47 wholesaler for consumption on the premises only; and, provided, further, that in  
 48 addition to draft beer manufactured on the premises, each brewpub licensee shall offer  
 49 for sale commercially available canned or bottled malt beverages from licensed  
 50 wholesalers; and

51 (C) Notwithstanding any other provision of this paragraph, sell up to a maximum  
 52 of 5,000 barrels annually of such beer to licensed wholesale dealers for distribution to  
 53 retailers and retail consumption dealers;

54 (3) Possession of a brewpub license shall not prevent the holder of such license from  
 55 obtaining a retail consumption dealer's license or a retailer's license for the same  
 56 premises;

57 (4) A brewpub license does not authorize the holder of such license to sell alcoholic  
 58 beverages by the package for consumption off the premises;

59 ~~(5) A brewpub licensee shall not offer or permit any free sampling of beer by its~~  
 60 ~~customers on the premises of a brewpub;~~

61 ~~(6)~~(5) The commissioner shall not issue a brewpub license if the brewpub premises are  
 62 located in a county or municipality in which the sale of alcoholic beverages is prohibited;  
 63 and

64 ~~(7)~~(6) A brewpub licensee shall:

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

68 (B) At the request of the commissioner, provide an irrevocable letter of credit or an  
 69 Irrevocable Standby Financial Guarantee Bond in favor of the State of Georgia in an  
 70 amount sufficient to guarantee such brewpub licensee's estimated tax liability for the  
 71 first year of operation; and

72 (C) Measure beer manufactured on the premises and otherwise comply with applicable  
 73 regulations respecting excise and enforcement tax determination of such beer as  
 74 required by this title."

75 **SECTION 4.**

76 Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages, is  
 77 amended by adding a new chapter to read as follows:

78 "CHAPTER 15

79 3-15-1.

80 As used in this chapter, the term:

81 (1) 'Licensed premises' means any premises in which alcoholic beverages are sold in  
 82 unbroken packages or sold or dispensed for consumption on the premises and shall  
 83 include any premises which are required by law to be licensed to sell alcoholic beverages  
 84 in unbroken packages or to sell or dispense alcoholic beverages for consumption on the  
 85 premises.

86 (2) 'Licensee' means the holder of a retailer license or a retail consumption dealer license.

87 (3) 'Operator' means an owner, licensee, operator, manager, or person in charge of any  
 88 licensed premises.

89 (4) 'Sample' means a small amount of an alcoholic beverage.

90 (5) 'Sampling' means a licensee offering a sample to a consumer for the purpose of  
 91 inducing or promoting a sale.

92 (6) 'Tasting event' means a scheduled event hosted by a licensee at which samples may  
 93 be provided and that may be open to the general public or limited by invitation.

94 3-15-2.

95 Notwithstanding any other provision of this title, any retailer or retail consumption dealer  
 96 may engage in sampling and the hosting of tasting events subject to the following terms  
 97 and conditions:

98 (1) Sampling shall only take place on the licensed premises and only at times at which  
 99 alcoholic beverages may be lawfully sold on such licensed premises;

100 (2) Only food that is lawful to sell on the licensed premises, under this title or under any  
 101 rules or regulations of the commissioner, may be served as part of a sampling. Such food  
 102 shall be offered at no cost to the consumer;

103 (3) Only alcoholic beverages the licensee is licensed to sell on the licensed premises may  
 104 be offered as part of a sampling, and such alcoholic beverages shall be owned by the  
 105 licensee;

106 (4) A consumer shall not be served more than one ounce of distilled spirits and not more  
 107 than four ounces of any combination of malt beverages or wine; provided, however, if the  
 108 consumer is served any sample of any distilled spirits, he or she shall not be served any  
 109 sample of malt beverages or wine and, if the consumer is served any sample of malt  
 110 beverages or wine, he or she shall not be served any sample of distilled spirits;

111 (5) Any operator or employee of the licensee may refuse a sample to any consumer and  
 112 may refuse to provide a sample of any brand or type of alcoholic beverage to any  
 113 consumer;

114 (6) If a tasting event is advertised, it shall be open to the public; and

115 (7) Any broken package containing alcoholic beverages shall be kept locked in a secure  
 116 room or cabinet by the operator of the licensed premises except when in use during a  
 117 sampling or tasting event.

118 3-15-3.

119 The commissioner may promulgate such rules and regulations he or she deems necessary  
 120 and appropriate for the enforcement of this chapter."

121 **SECTION 5.**

122 For purposes of proposing rules and regulations, this Act shall become effective upon its  
 123 approval by the Governor or upon its becoming law without such approval. For all other  
 124 purposes, this Act shall become effective on September 1, 2013.

125 **SECTION 6.**

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