

Senate Bill 63

By: Senators Hill of the 6th, Gooch of the 51st, Albers of the 56th, Bethel of the 54th, Ginn of the 47th and others

**AS PASSED SENATE**

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 a manufacturer of malt beverages to provide to the public limited  
 3 quantities of malt beverages produced by such manufacturer for consumption off the  
 4 premises; to change and provide for certain definitions; to provide for the powers and duties  
 5 of the state revenue commissioner as to the denial, suspension, or cancellations of permits;  
 6 to change certain provisions related to penalties; to provide for a brewpub to sell limited  
 7 quantities of malt beverages manufactured on its premises for consumption off the premises;  
 8 to authorize a brewpub to permit a patron to remove a growler for consumption off the  
 9 premises under certain circumstances; to provide certain requirements for transporting such  
 10 growlers; to allow brewers to provide limited amounts of malt beverages directly to the  
 11 public for consumption on and off the premises as a part of educational and promotional  
 12 brewery tours; to authorize a brewer to provide growlers as a free souvenir; to provide certain  
 13 requirements for transporting such growlers; to change certain provisions related to the  
 14 provision of tours by brewers; to provide for the payment of certain taxes by brewers; to  
 15 provide for the issuance of tour permits to brewers; to provide for the conditions under which  
 16 educational and promotional brewery tours may be conducted; to allow certain merchandise  
 17 to be offered to the public by a brewer in conjunction with a brewery tour; to amend Code  
 18 Section 40-6-253 of the Official Code of Georgia Annotated, relating to the consumption of  
 19 alcoholic beverage or possession of open container of alcoholic beverage in the passenger  
 20 area of a motor vehicle, so as to provide that a capped and secured growler containing a  
 21 certain amount of malt beverages manufactured on the premises of a brewpub or a brewer  
 22 shall not constitute an open alcoholic beverage container; to provide for related matters; to  
 23 repeal conflicting laws; and for other purposes.

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

25 **SECTION 1.**

26 Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages, is  
 27 amended by adding a new paragraph and revising paragraphs (3) and (10.1) of Code  
 28 Section 3-1-2, relating to definitions, as follows:

29 "(3) 'Brewpub' means any eating establishment in which beer or malt beverages are  
 30 manufactured or brewed, subject to the barrel production limitation prescribed in Code  
 31 Section 3-5-36 ~~for retail consumption on the premises and solely in draft form~~. As used  
 32 in this paragraph, the term 'eating establishment' means an establishment which is  
 33 licensed to sell distilled spirits, beer, malt beverages, or wines and which derives at  
 34 least 50 percent of its total annual gross food and beverage sales from the sale of prepared  
 35 meals or food; provided, however, that when determining the total annual gross food and  
 36 beverage sales, barrels of ~~beer~~ malt beverages sold to licensed wholesale dealers ~~for~~  
 37 ~~distribution to retailers and retail consumption dealers~~, as authorized pursuant to  
 38 subparagraph ~~(C)~~ (D) of paragraph (2) of Code Section 3-5-36, or to the public for  
 39 consumption off the premises, as authorized pursuant to subparagraph (D) of paragraph  
 40 (2) and paragraph (4) of Code Section 3-5-36, shall not be used ~~when determining the~~  
 41 ~~total annual gross food and beverage sales.~~"

42 "(10.1) 'Growler' means any unlabeled, refillable, sealable container with a liquid  
 43 capacity that does not exceed 64 ounces.

44 ~~(10.1)~~(10.2) 'Hard cider' means an alcoholic beverage obtained by the fermentation of  
 45 the juice of apples, containing not more than 6 percent alcohol by volume, including, but  
 46 not limited to flavored or carbonated cider. For purposes of this title, hard cider shall be  
 47 deemed a malt beverage. The term does not include 'sweet cider.'"

48 **SECTION 2.**

49 Said title is further amended by revising Code Section 3-2-3, relating to the powers and  
 50 duties of commissioner as to denial, suspension, or cancellation of licenses and promulgation  
 51 of rules and regulations as to conversion of standards of measurement to English system and  
 52 labeling of distilled spirits, as follows:

53 "3-2-3.

54 In addition to his or her other duties and responsibilities to administer this title, the  
 55 commissioner may:

56 (1) Deny, suspend, or cancel any license or permit required under this title if:

57 (A) The license application is not filed in good faith or is filed by some person as a  
 58 subterfuge for any other person;

59 (B) Any applicant for a license or permit or any licensee or permit holder under this  
 60 title willfully fails to comply with any provisions of this title or with rules and  
 61 regulations adopted by the commissioner; or

62 (C) Any person to whom a license or permit has been issued is no longer engaged in  
 63 the dealing of alcoholic beverages or no longer qualifies as a licensee or permit holder  
 64 under this title.

65 Before any denial, suspension, or cancellation of a license or permit granted pursuant to  
 66 this title, the applicant, ~~or~~ licensee, or permit holder shall be afforded a hearing in the  
 67 manner and subject to the conditions and procedures established by this chapter and the  
 68 commissioner. The commissioner shall notify an applicant, ~~or~~ licensee, or permit holder  
 69 in writing of the denial, suspension, or cancellation by registered or certified mail or  
 70 statutory overnight delivery to the last known address of the applicant, ~~or~~ licensee, or  
 71 permit holder appearing in the commissioner's files or by personal service upon the  
 72 applicant, ~~or~~ licensee, or permit holder by an authorized agent of the commissioner.  
 73 Upon cancellation of a license or permit for cause under this paragraph, there shall be no  
 74 renewal or reissuance of the canceled license or permit for a period of two years from the  
 75 date of cancellation;

76 (2) In the event that the license of any person is canceled by the commissioner under the  
 77 authority of this title, hold the bonds of the person for a period of three years against any  
 78 liabilities accruing as a result of the business of the person whose license is canceled. In  
 79 no event shall the surrender of any bond release any liability;

80 (3) Enter into agreements with appropriate authorities of other states who enforce the  
 81 alcoholic beverage laws thereof, to exchange information relative to the manufacture,  
 82 receipt, sale, use, or transportation of alcoholic beverages;

83 (4) Promulgate rules and regulations which he or she deems necessary for the conversion  
 84 from the metric system of measurement to the equivalent English measurement in United  
 85 States gallons and subdivisions of gallons and shall compute all tax rates at the equivalent  
 86 English measurement; and

87 (5) Promulgate rules and regulations, not inconsistent with federal laws or regulations,  
 88 requiring informative labeling of all distilled spirits offered for sale in this state."

89 **SECTION 3.**

90 Said title is further amended by revising Code Section 3-3-46, relating to penalties, as  
 91 follows:

92 "3-3-46.

93 (a) The violation of any provision of this article by the operator of any licensed premises  
94 or any premises for which a permit has been issued shall constitute grounds for the  
95 suspension and revocation of any and all alcoholic beverage licenses and permits issued  
96 to such operator.

97 (b) Any person who violates any provision of this article shall be guilty of a misdemeanor  
98 of a high and aggravated nature."

99 **SECTION 4.**

100 Said title is further amended by revising Code Section 3-5-36, relating to brewpubs and the  
101 limited exception to the prohibition against ownership and employment interests between  
102 manufacture, distribution, and sale of malt beverages, as follows:

103 "3-5-36.

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

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

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

112 (A) Manufacture on the licensed premises not more than 10,000 barrels of ~~beer~~ malt  
113 beverages in a calendar year solely for retail sale ~~on the premises~~;

114 (B) Operate an eating establishment that shall be the sole retail outlet for such ~~beer~~  
115 malt beverages; ~~and~~

116 (C) Operate an eating establishment that may offer for sale for consumption on the  
117 premises any other alcoholic beverages produced by other manufacturers which are  
118 authorized for retail sale under this title, including wine, distilled spirits, and malt  
119 beverages, provided that such alcoholic beverages are purchased from a licensed  
120 wholesaler ~~for consumption on the premises only~~; and, provided, further, that in  
121 addition to draft beer manufactured on the premises, each brewpub licensee shall offer  
122 for sale commercially available canned or bottled malt beverages from licensed  
123 wholesalers; and

124 ~~(C)(D)~~ (D) Notwithstanding any other provision of this paragraph, sell up to a maximum  
125 of 5,000 barrels annually of such ~~beer~~ malt beverages to:

126 (i) Licensed ~~licensed~~ wholesale dealers for distribution to retailers and retail  
127 consumption dealers;

128 (ii) The public for consumption off the premises; or

129 (iii) A combination thereof.

130 Under no circumstances shall such malt beverages be sold by a brewpub licensee to any  
 131 person holding a retail consumption dealer's license or a retailer's license for the  
 132 purpose of resale;

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

136 (4)(A) A brewpub license authorizes the holder of such license to permit an individual  
 137 to remove for consumption off the premises one growler containing malt beverages  
 138 manufactured on the premises of the brewpub, provided such individual has purchased  
 139 and consumed a meal on the premises of the brewpub and consumed a portion of the  
 140 growler containing malt beverages manufactured on the premises purchased with such  
 141 meal. Such partially consumed growler must be capped by the individual who purchased  
 142 the meal, placed by the licensee or employees of the licensee in a bag or container that  
 143 is secured in such a manner that it is visibly apparent if the bag or container has been  
 144 subsequently opened or tampered with, and a dated receipt for the growler and meal shall  
 145 be provided by the licensee and attached to the bag or container. If transported in a motor  
 146 vehicle, the bag or container with the capped growler shall be placed in a locked glove  
 147 compartment, a locked trunk, or the area behind the last upright seat of a motor vehicle  
 148 that is not equipped with a trunk.

149 (B) Except as provided in subparagraph (A) of this paragraph, a brewpub license does  
 150 not authorize the holder of such license to sell alcoholic beverages by the package for  
 151 consumption off the premises;

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

154 ~~(6)~~(5) The commissioner shall not issue a brewpub license if the ~~brewpub~~ premises ~~are~~  
 155 to be licensed is located in a county or municipality in which the sale of alcoholic  
 156 beverages is prohibited; and

157 ~~(7)~~(6) A brewpub licensee shall:

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

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

165 (C) Measure ~~beer~~ malt beverages manufactured on the premises and otherwise comply  
 166 with applicable rules and regulations respecting excise and enforcement tax  
 167 determination of such ~~beer~~ malt beverages as required by this title."

168 **SECTION 5.**

169 Said title is further amended by revising Code Section 3-5-38, relating to free tasting of malt  
 170 beverages on brewery premises during educational and promotional tours, as follows:

171 "3-5-38.

172 ~~The commissioner shall, upon proper application therefor, issue an annual permit to any~~  
 173 ~~brewer licensed in this state authorizing such brewer to conduct educational and~~  
 174 ~~promotional brewery tours which may include free tasting on the premises by members of~~  
 175 ~~the public of tax paid varieties of malt beverages brewed by such brewer.~~

176 (a) As used in this Code section, the term:

177 (1) 'Brewery tour' means guided access to the manufacturing portion of the licensed  
 178 premises of a brewer, an educational or promotional video relating to the brewer and the  
 179 brewer's products or manufacturing process, or a combination thereof.

180 (2) 'Free souvenir' means a complimentary, single container of malt beverages with a  
 181 liquid capacity that does not exceed 64 ounces.

182 (3) 'Free tastings' means the provision of complimentary samples of malt beverages to  
 183 the public for consumption on the premises of a brewer.

184 (4) 'Sample' means a quantity of malt beverages manufactured by the brewer.

185 (b)(1) A brewer licensed in this state may apply to the commissioner for an annual  
 186 permit authorizing such brewer to conduct educational and promotional brewery tours on  
 187 the licensed premises of the brewer, free of charge or for a fee, which may include:

188 (A) Free souvenirs; and

189 (B) Free tastings on the licensed premises of the brewery of malt beverages  
 190 manufactured by such brewer.

191 (2)(A) No brewer providing free souvenirs pursuant to this subsection shall provide,  
 192 directly or indirectly, more than one free souvenir to the same individual in one  
 193 calendar day. Each free souvenir shall consist of malt beverages manufactured by the  
 194 brewer on the licensed premises.

195 (B) If the brewer provides a growler as a free souvenir, the growler must be capped by  
 196 the individual to whom it is being provided, placed by the licensee or employees of the  
 197 licensee in a bag or container that is secured in such a manner that it is visibly apparent  
 198 if the bag or container has been subsequently opened or tampered with, and a tag  
 199 showing the date and name of the brewer shall be provided by the licensee and attached  
 200 to the bag or container. If transported in a motor vehicle, the bag or container with the

201 capped growler shall be placed in a locked glove compartment, a locked trunk, or the  
 202 area behind the last upright seat of a motor vehicle that is not equipped with a trunk.  
 203 (3) No brewer conducting free tastings pursuant to this subsection shall provide, directly  
 204 or indirectly, to the same individual in one calendar day more than 36 ounces of malt  
 205 beverages for consumption on the premises. Free tastings shall be held in a designated  
 206 tasting area on the licensed premises of the brewer and all open bottles containing malt  
 207 beverages shall be visible at all times.  
 208 (4) Free souvenirs shall only be provided after the brewery tour and only to individuals  
 209 who have attended a brewery tour on the same calendar day. An individual shall be 21  
 210 years of age or older to receive a free souvenir or free tasting.  
 211 (5) The brewer shall pay all excise and use taxes on any samples and all use taxes on any  
 212 free souvenirs provided pursuant to this subsection.  
 213 (c) A brewer may, in conjunction with a brewery tour pursuant to subsection (b) of this  
 214 Code section, provide to the public free of charge or for a fee merchandise such as shirts,  
 215 glasses, and other promotional items which do not contain alcoholic beverages.  
 216 (d) If a brewer chooses to charge a fee for a brewery tour pursuant to subsection (b) of this  
 217 Code section, such fee may be based on the amount of malt beverages to be furnished to  
 218 the individual attending the brewery tour, provided that such fee is charged prior to the  
 219 beginning of such tour.  
 220 (e) No alcoholic beverages shall be sold on any licensed premises for which a permit has  
 221 been issued pursuant to this Code section.  
 222 (f) The department shall promulgate and enforce such rules and regulations as it may deem  
 223 necessary to effectuate the provisions of this Code section."

224 **SECTION 6.**

225 Code Section 40-6-253 of the Official Code of Georgia Annotated, relating to consumption  
 226 of alcoholic beverage or possession of open container of alcoholic beverage in passenger  
 227 area, is amended by revising paragraph (2) of subsection (a) as follows:

228 "(2) 'Open alcoholic beverage container' means any bottle, can, or other receptacle that:  
 229 (A) Contains any amount of alcoholic beverage; and  
 230 (B)(i) Is open or has a broken seal; or  
 231 (ii) The contents of which are partially removed.

232 A container that has been sealed, ~~or~~ resealed, or capped and secured pursuant to Code  
 233 Section 3-5-4, 3-5-36, 3-5-38, or 3-6-4 shall not constitute an open alcoholic beverage  
 234 container for purposes of this Code section."

235

**SECTION 7.**

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