

Senate Bill 85

By: Senators Jeffares of the 17th, Hill of the 6th, Martin of the 9th, Hufstetler of the 52nd, Albers of the 56th and others

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 5 of Title 3 of the Official Code of Georgia Annotated, relating to malt
2 beverages, so as to provide for the limited sale of malt beverages at retail by manufacturers
3 of malt beverages; to provide for a definition; to provide for the promulgation of rules and
4 regulations by the state revenue commissioner; to provide for certain powers of the state
5 revenue commissioner; to clarify that sales of malt beverages by brewpubs for consumption
6 off the premises are governed by the local jurisdiction; to provide for remittance of local
7 excise taxes by brewers; to provide for an effective date; to provide for related matters; to
8 repeal conflicting laws; and for other purposes.

9 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

SECTION 1.

10 Chapter 5 of Title 3 of the Official Code of Georgia Annotated, relating to malt beverages,
11 is amended by revising Code Section 3-5-1, relating to definitions, as follows:

12 "3-5-1.

13 As used in this chapter, the term:

14 (1) 'Barrel' means 31 gallons.

15 ~~(1)~~(2) 'Brewer' means a manufacturer of malt beverages.

16 ~~(2)~~(3) 'Case' means a box or receptacle containing not more than 288 ounces of malt
17 beverages on the average."
18

SECTION 2.

19 Said chapter is further amended by adding a new Code section to read as follows:

20 "3-5-24.1.

21 (a) A limited exception to the provisions of Code Sections 3-5-29 through 3-5-32
22 providing a three-tier system for the distribution and sale of malt beverages shall exist to
23 the extent that the license to manufacture malt beverages in this state shall include the right
24

25 to sell up to 3,000 barrels of malt beverages per year produced at the brewer's licensed
 26 premises to individuals who are on such premises for:

27 (1) Consumption on the premises; and

28 (2) Consumption off the premises, provided that such sales for consumption off the
 29 premises shall not exceed a maximum of 288 ounces of malt beverages per consumer per
 30 day.

31 (b) A brewer may sell malt beverages pursuant to subsection (a) of this Code section on
 32 all days and at all times that sales of malt beverages by retailers are lawful within the
 33 county or municipality in which the licensed premises of the brewer is located, including,
 34 but not limited to, Sundays.

35 (c) Any brewer engaging in retail sales of malt beverages pursuant to this Code section
 36 shall remit all state and local sales, use, and excise taxes to the proper tax collecting
 37 authority.

38 (d) The commissioner shall promulgate and enforce such rules and regulations as he or she
 39 may deem reasonable and necessary to effectuate the provisions of this Code section.

40 (e) Upon a violation by a brewer of any provision of this Code Section or this title or any
 41 rule or regulation promulgated thereunder, the commissioner shall have the power to place
 42 conditions or limitations on such brewer's license and to modify or amend such conditions
 43 or limitations."

44 **SECTION 3.**

45 Said chapter is further amended by revising paragraph (4) of Code Section 3-5-36, relating
 46 to the brewpub exception to three-tier distribution system, as follows:

47 "(4) A brewpub license does not authorize the holder of such license to sell alcoholic
 48 beverages shall not be prohibited from selling wine or malt beverages by the package for
 49 consumption off the premises where so permitted by resolution or ordinance of the
 50 county or municipality;"

51 **SECTION 4.**

52 Said chapter is further amended by revising Code Section 3-5-38, relating to permits for free
 53 tasting of malt beverages during educational and promotional brewery tours, merchandising,
 54 fees for tours, selling of beverages, and administration, as follows:

55 "3-5-38.

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

57 ~~(1) 'Brewery tour' means guided access to the manufacturing portion of the licensed~~
 58 ~~premises of a brewer.~~

- 59 ~~(2) 'Free souvenir' means a complimentary sealed container or containers of malt~~
60 ~~beverages with a total liquid capacity that does not exceed 72 ounces.~~
- 61 ~~(3) 'Free tastings' means the provision of complimentary samples of malt beverages to~~
62 ~~the public for consumption on the premises of a brewer.~~
- 63 ~~(4) 'Sample' means a quantity of malt beverages manufactured by the brewer.~~
- 64 ~~(b)(1) A brewer licensed in this state may apply to the commissioner for an annual~~
65 ~~permit authorizing such brewer to conduct educational and promotional brewery tours on~~
66 ~~the licensed premises of the brewer, free of charge or for a fee, which may include:~~
- 67 ~~(A) Free souvenirs;~~
68 ~~(B) Free food; and~~
69 ~~(C) Free tastings on the licensed premises of the brewery of malt beverages~~
70 ~~manufactured by such brewer.~~
- 71 ~~(2) No brewer providing free souvenirs pursuant to this subsection shall provide, directly~~
72 ~~or indirectly, more than one free souvenir to the same individual in one calendar day.~~
73 ~~Each free souvenir shall consist of malt beverages manufactured by the brewer on the~~
74 ~~licensed premises.~~
- 75 ~~(3) No brewer conducting free tastings pursuant to this subsection shall provide, directly~~
76 ~~or indirectly, to the same individual in one calendar day more than 36 ounces of malt~~
77 ~~beverages for consumption on the premises. Free tastings shall be held in a designated~~
78 ~~tasting area on the licensed premises of the brewer and all open bottles containing malt~~
79 ~~beverages shall be visible at all times.~~
- 80 ~~(4) Free souvenirs shall only be provided after the brewery tour and only to individuals~~
81 ~~who have attended a brewery tour on the same calendar day. Free tastings and free food~~
82 ~~may be provided before, during, and after a brewery tour. An individual shall be 21 years~~
83 ~~of age or older to receive a free souvenir or free tasting.~~
- 84 ~~(5) The brewer shall pay all excise and use taxes on any samples and all use taxes on any~~
85 ~~free souvenirs provided pursuant to this subsection.~~
- 86 ~~(c) A brewer may provide to the public free of charge or for a fee merchandise such as~~
87 ~~shirts, glasses, and other promotional items which do not contain alcoholic beverages.~~
- 88 ~~(d) If a brewer chooses to charge a fee for a brewery tour pursuant to subsection (b) of this~~
89 ~~Code section, such brewer may charge varying fees for the brewery tours, provided that~~
90 ~~such fees are charged prior to the beginning of such tour. The provision of malt beverages~~
91 ~~by a brewer as part of a brewery tour pursuant to this Code section shall not be deemed a~~
92 ~~retail sale of alcoholic beverages.~~
- 93 ~~(e) No alcoholic beverages shall be sold on any licensed premises for which a permit has~~
94 ~~been issued pursuant to this Code section.~~

95 (f) ~~The department shall promulgate and enforce such rules and regulations as it may deem~~
96 ~~necessary to effectuate the provisions of this Code section. Reserved.~~"

97 **SECTION 5.**

98 Said chapter is further amended by revising Code Section 3-5-81, relating to payment of tax
99 by wholesale dealers generally, time of payment, reports by dealers as to quantities of
100 beverages sold, as follows:

101 "3-5-81.

102 (a) The excise taxes provided for in this part shall be imposed upon and shall be paid by
103 the licensed wholesale dealer in malt beverages; provided, however, that such taxes shall
104 be imposed upon and shall be paid by the licensed brewer for malt beverages served or sold
105 by the brewer directly to the public pursuant to Code Section 3-5-24.1.

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

109 (c) Each licensee responsible for the payment of the excise tax shall file a report itemizing
110 for the preceding calendar month the exact quantities of malt beverages, by size and type
111 of container, sold during the month within each municipality or county. The licensee shall
112 file the report with each municipality or county wherein the beverages are sold by the
113 licensee.

114 (d) ~~The wholesaler licensee~~ shall remit to the municipality or county on the tenth day of
115 the month following the calendar month in which the sales were made the tax imposed by
116 the municipality or county."

117 **SECTION 6.**

118 This Act shall become effective on September 1, 2017.

119 **SECTION 7.**

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