House Bill 831

By: Representative Carpenter of the 4th

A BILL TO BE ENTITLED

AN ACT

To amend Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages, so as to provide for a sales tax on all alcoholic beverages; to repeal state and local excise taxes on alcoholic beverages; to remove inapplicable references; to amend Code Section 2-8-23.1 of the Official Code of Georgia Annotated, relating to limitations on assessments by agricultural commodities commissions, so as to provide for a conforming cross-reference; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages, is amended in Chapter 1, relating to general provisions, by adding a new Code section to read as follows:

″3-1-6.

(a) A tax, in addition to all other taxes of every kind imposed by law, is imposed upon the sale of alcoholic beverages in this state at a rate of 1 percent of the retail price.

(b) The tax imposed in subsection (a) of this Code section shall be paid by the seller and due and payable in the same manner as would be otherwise required under Article 1 of Chapter 8 of Title 48.″

SECTION 1-2.

Said title is further amended by repealing subsection (d) of Code Section 3-2-6, relating to establishment and operation of reporting system for collection of taxes on malt beverages, distilled spirits, and wines and applicability to reporting system of provisions of law relating to revenue stamps.

SECTION 1-3.

Said title is further amended by revising paragraph (7) of subsection (a) of Code Section 3-3-1.1, relating to legislative intent and construction, as follows:

″(7) Provide for an orderly system of public revenues ~~by facilitating the collection and accountability of this state and local excise taxes~~;″

SECTION 1-4.

Said title is further amended by revising subsection (a) of Code Section 3-3-8, relating to possession and transportation of lawfully purchased alcoholic beverages upon which taxes have not been paid in this state, as follows:

″(a)(1) An individual may possess and transport in this state the following quantities of alcoholic beverages upon which the taxes imposed by this title have not been paid:

(A) In the case of distilled spirits, not in excess of one-half gallon;

(B) In the case of malt beverages, not in excess of 576 ounces or two standard cases of 12 ounce cans or the equivalent thereof or one 7.75 gallon keg or barrel; and

(C) In the case of wine, not in excess of one-half gallon, except where the wine possessed was purchased and shipped pursuant to Code Section 3-6-32 and where the possessor has in his or her possession documentation evidencing that the wine was so purchased and shipped.

(2) ~~Upon paying the excise taxes imposed by this title, an individual may possess and transport in this state the following quantities of alcoholic beverages purchased outside this state for personal or household use:~~

~~(A) In the case of distilled spirits, not in excess of one gallon;~~

~~(B) In the case of malt beverages, not in excess of two standard cases or the equivalent thereof; and~~

~~(C) In the case of wine, not in excess of two standard cases or the equivalent thereof.~~

~~(3)~~ Whenever alcoholic beverages upon which the taxes imposed by this title have not been paid are being transported in a motor vehicle or other conveyance capable of transporting people, each individual in such motor vehicle or other conveyance, who is authorized to possess alcoholic beverages shall be entitled to the exemptions set forth in paragraph (1) of this subsection, and there shall be no presumption that all alcoholic beverages in the motor vehicle are possessed by the owner or operator of the motor vehicle. ~~Where alcoholic beverages are possessed in excess of the exemptions set forth in paragraph (1) of this subsection, the possessor must have in his or her possession documentation evidencing that the excise taxes imposed by this title have been paid to the commissioner.~~"

SECTION 1-5.

Said title is further amended by revising subsection (d) of Code Section 3-4-24.2, relating to three-tier system of distribution and sale of distilled spirits, Sunday sales, regulatory authority, and conditions or limitations, as follows:

"(d) Any distiller engaging in sales of distilled spirits pursuant to subsection (a) of this Code section shall remit all state and local sales~~, use, and excise~~ and use taxes to the proper tax collecting authority."

SECTION 1-6.

Said title is further amended by revising subsection (b) of Code Section 3-4-26, relating to display of advertisement or information regarding prices of distilled spirits in visible places, sales below cost prohibited, and exceptions authorized, as follows:

"(b) No person licensed to sell distilled spirits by the package for carry-out purposes shall sell such beverages at a price less than the cost which such licensee pays for such distilled spirits. As used in this subsection, cost shall include the wholesale price plus the ~~local excise~~ sales tax imposed, as reflected in invoices which the commissioner of revenue may require to be maintained on said licensee's place of business."

SECTION 1-7.

Said title is further amended by revising Code Section 3-4-60, relating to levy and amount of state excise tax on distilled spirits, as follows:

"3-4-60.

The following state taxes are levied and imposed:

(1) ~~There shall be imposed upon the first sale, use, or final delivery within this state of all distilled spirits an excise tax in the amount of 50¢ per liter and, upon the first sale, use, or final delivery within this state of all alcohol, an excise tax in the amount of 70¢ per liter, and a proportionate tax at the same rate on all fractional parts of a liter;~~

~~(2)~~ There shall be imposed upon the importation for use, consumption, or final delivery into this state of all distilled spirits an import tax in the amount of 50¢ per liter and, upon the importation for use, consumption, or final delivery into this state of all alcohol, an import tax in the amount of 70¢ per liter, and a proportionate tax at the same rate on all fractional parts of a liter; and

~~(3)~~(2) All alcohol spirits manufactured within this state for sale within this state shall be made from Georgia grown products."

SECTION 1-8.

Said title is further amended by repealing and reserving Code Section 3-4-61, relating to payment of state excise tax and report.

SECTION 1-9.

Said title is further amended by repealing and reserving Code Section 3-4-80, relating to levy of tax on sale of distilled spirits by the package authorized, rate of tax, manner of imposition, and imposition of tax by both county and municipality located within county.

SECTION 1-10.

Said title is further amended by repealing and reserving Code Section 3-4-130, relating to imposition of excise tax on sales by the drink by municipalities authorized and rate of tax.

SECTION 1-11.

Said title is further amended by repealing and reserving Code Section 3-4-131, relating to imposition of excise tax on sales by the drink by counties authorized, rate of tax, and taxation by both county and municipality located within county.

SECTION 1-12.

Said title is further amended by repealing and reserving Code Section 3-4-132, relating to manner of imposition, payment, and collection of excise tax on sales by the drink.

SECTION 1-13.

Said title is further amended by repealing Code Section 3-4-133, relating to allowance and reimbursement to dealers collecting excise tax on sales by the drink of percentage of tax due.

SECTION 1-14.

Said title is further amended by revising paragraph (4) of Code Section 3-4-151, relating to purposes and policies of the Georgia Distilled Spirits Distribution Act, as follows:

"(4) To protect public revenues by facilitating the collection and accountability of ~~state and local excise~~ taxes; and"

SECTION 1-15.

Said title is further amended by revising subsection (c) of Code Section 3-5-24.1, relating to exception to three-tier system, sales at brewer's licensed premises, taxing, regulatory authority, and conditions or limitations, as follows:

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

SECTION 1-16.

Said title is further amended by revising paragraph (5) of subsection (a) of Code Section 3-5-30, relating to brewer-wholesaler relations - purpose, intent, and enforcement, as follows:

″(5) To provide a distribution system for malt beverages that will facilitate the collection and accountability of ~~state and local excise~~ taxes.″

SECTION 1-17.

Said title is further amended by revising paragraph (6) of Code Section 3-5-36, relating to 'brewpub' exception to three-tier distribution system, as follows:

″(6) A brewpub licensee shall:

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

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

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

SECTION 1-18.

Said title is further amended by repealing and reserving Code Section 3-5-60, relating to levy and amount of state excise tax on malt beverages.

SECTION 1-19.

Said title is further amended by repealing Code Section 3-5-61, relating to exemptions from state excise tax.

SECTION 1-20.

Said title is further amended by repealing and reserving Code Section 3-5-80, relating to levy and amount of local excise tax on malt beverages.

SECTION 1-21.

Said title is further amended by repealing and reserving Code Section 3-5-81, relating to payment of tax by wholesale dealers generally, time of payment, and reports by dealers as to quantities of beverages sold.

SECTION 1-22.

Said title is further amended by repealing and reserving Code Section 3-5-83, relating to use of excess tax revenues by consolidated governments and certain counties.

SECTION 1-23.

Said title is further amended by repealing Code Section 3-5-84, relating to enforcement of part.

SECTION 1-24.

Said title is further amended by revising subsection (a) of Code Section 3-6-3, relating to household production of wine, as follows:

"(a) A head of a household may produce 200 gallons of wine in any one calendar year to be consumed within his own household without any requirement to be licensed for such purpose. ~~Wine so produced shall not be subject to any excise tax imposed by this chapter.~~"

SECTION 1-25.

Said title is further amended by repealing subsection (f) of Code Section 3-6-21.1, relating to licensing of farm wineries to engage in retail and wholesale sales, surety bond, and excise taxes.

SECTION 1-26.

Said title is further amended by revising subsection (b) of Code Section 3-6-25.1, relating to display of advertisement or information regarding prices of wine in visible places, sales below cost prohibited, and exceptions authorized, as follows:

"(b) No person licensed to sell wine by the package for carry-out purposes shall sell such beverages at a price less than the cost which such licensee pays for such wine. As used in this subsection, cost shall include the wholesale price plus the ~~local excise~~ tax imposed, as reflected in invoices which the commissioner of revenue may require to be maintained on said licensee's place of business."

SECTION 1-27.

Said title is further amended by repealing and reserving subsection (f) of Code Section 3-6-31, relating to special order shipping license requirements and regulations.

SECTION 1-28.

Said title is further amended by repealing and reserving subsections (a) and (c) of Code Section 3-6-50, relating to levy and amount of state excise tax on wine.

SECTION 1-29.

Said title is further amended by repealing Code Section 3-6-60, relating to levy and amount of local excise tax on wine generally, rate of tax, manner of imposition, payment, and collection and imposition of tax by both county and municipality located within county.

SECTION 1-30.

Said title is further amended by repealing and reserving Code Section 3-6-70, relating to exemptions from excise tax.

SECTION 1-31.

Said title is further amended by repealing and reserving Code Section 3-7-60, relating to levy and amount of local excise tax on sale of distilled spirits, persons required to pay tax, and collection of tax.

SECTION 1-32.

Said title is further amended by repealing Code Section 3-7-61, relating to imposition of tax on sale of mixed drinks.

SECTION 1-33.

Said title is further amended by revising subsection (d) of Code Section 3-9-4, relating to issuance of special use temporary permits for wine auctions by nonprofit civic organizations, as follows:

"(d) Bona fide nonprofit civic organizations which hold a special use temporary permit issued pursuant to this Code section may auction for off-premises consumption wine in sealed containers, which has been donated to the bona fide nonprofit civic organization by a person who does not currently hold a license that has been issued by the department pursuant to this title, wine which has been donated by a Georgia licensed retailer, or wine which has been donated or purchased from a Georgia licensed wine wholesaler. The bona fide nonprofit civic organization may ship or otherwise transport to the location specified in the special use temporary permit wine donated by a person who does not currently hold a license that has been issued by the department pursuant to this title or wine donated by a Georgia licensed retailer. ~~Georgia excise tax shall be paid to the department on any~~

~~donated wine. If the bona fide nonprofit civic organization cannot verify, within ten days of the conclusion of the permitted event, that Georgia excise tax for the wine was previously paid to the department, the bona fide nonprofit civic organization shall pay to the department the appropriate excise tax as required by law.~~"

SECTION 1-34.

Said title is further amended by revising paragraph (1) of Code Section 3-11-3, relating to event permits, as follows:

"(1) Apply to the local governing authority of the jurisdiction where the function is to be catered for an event permit. The application shall include the name of the caterer; the date, address, and time of the event; and the licensed alcoholic beverage caterer's license number. When the catered function is domiciled in a local political subdivision other than that which issues the alcoholic beverage caterer's license, that local governing authority shall be authorized to charge an event permit fee of $50.00 ~~and levy local excise taxes on the total quantity of alcoholic beverages brought into such political subdivision by the caterer~~;"

PART II

SECTION 2-1.

Code Section 2-8-23.1 of the Official Code of Georgia Annotated, relating to limitations on assessments by agricultural commodities commissions, is amended by repealing subsection (c).

PART III

SECTION 3-1.

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