

House Bill 278

By: Representatives Clark of the 147th, Werkheiser of the 157th, Carpenter of the 4th, Martin of the 49th, Tarvin of the 2nd, and others

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 regulation of the manufacture, distribution, and sale of malt beverages;
3 to provide a definition; to permit small brewers and other brewers to sell a limited quantity
4 of malt beverages at retail on the premises for consumption on and off of the premises; to
5 eliminate the daily quantity limitation on sales by brewers directly to consumers; to provide
6 for the transfer of a limited quantity of malt beverages by small brewers and brewpubs; to
7 increase the amount of malt beverages a brewpub may sell to wholesalers: to provide for
8 donations of malt beverages to bona fide nonprofit civic organizations; to provide for related
9 matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages, is
13 amended by adding a new paragraph to Code Section 3-1-2, relating to definitions, to read
14 as follows:

15 "(20.1) 'Small brewer' means any brewer that produces fewer than six million barrels of
16 malt beverages per year and in which another brewer that produces six million or more

17 barrels of malt beverages a year has no greater than a 25 percent ownership interest,
18 controlling interest, or the equivalent economic interest."

19 **SECTION 2.**

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

23 "3-5-24.1.

24 (a) Except as otherwise provided in Code Section 3-5-24.2 as to small brewers and in Code
25 Section 3-5-36 as to brewpubs, a ~~A~~ limited exception to the provisions of this title
26 providing a three-tier system for the distribution and sale of malt beverages shall exist to
27 the extent that the license to manufacture malt beverages in this state shall include the right
28 to sell up to ~~3,000~~ 10,000 barrels of malt beverages per year of those produced at the
29 brewer's licensed premises to individuals who are on such premises for consumption both
30 on and off the premises.;

31 ~~(1) Consumption on the premises; and~~

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

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

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

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

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

SECTION 3.

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

"3-5-24.2.

(a) A limited exception to the provisions of this title providing a three-tier system for the distribution and sale of malt beverages shall exist to the extent that, for small brewers, the license to manufacture malt beverages in this state shall include the right to sell up to 10,000 barrels of malt beverages per year of those produced at the small brewer's licensed premises to individuals who are on such premises for consumption both on and off the premises.

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

(c) Any small 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.

(d) A small brewer may transfer malt beverages in bulk containers or original consumer containers to another small brewer with which it shares more than 50 percent common ownership, provided that the receiving small brewer:

(1) Annually produces a minimum of 100 barrels of malt beverages on site at the premises for which it is licensed for the manufacturing of malt beverages;

(2) Sells the transferred malt beverages at retail directly to individuals on the premises or to licensed wholesale dealers, pursuant to the conditions and limitations of this Code section; and

(3) Sells no more than 10,000 barrels of malt beverages at retail, as provided in subsection (a) of this Code section, regardless of whether such malt beverages are transferred from another small brewer or produced on site.

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

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

SECTION 4.

Said title is further amended by revising Code Section 3-5-27, relating to malt beverages acquired by retail dealers from persons other than licensed wholesale dealers declared contraband, as follows:

"3-5-27.

Except as otherwise provided in Code Sections 3-5.24.2 and 3-5-36, any ~~Any~~ malt beverage possessed, sold, or offered for sale by a retail dealer which was purchased or otherwise acquired from any person other than a wholesale dealer authorized to do business under this chapter is declared to be contraband and shall be seized by the commissioner or the appropriate local authorities and disposed of by the commissioner in the manner provided in this title."

SECTION 5.

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

"3-5-36.

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

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

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

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

(B) Operate an eating establishment that shall be the sole retail outlet for such malt beverages;

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

(D) Notwithstanding any other provision of this paragraph, sell up to a maximum of ~~5,000~~ 9,500 barrels annually of such malt beverages to licensed wholesale dealers.

Under no circumstances shall such malt beverages be sold by a brewpub licensee to any

person holding a retail consumption dealer's license or a retailer's license for the purpose of resale;

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

(4) A brewpub license holder shall not be prohibited from selling wine or malt beverages by the package for consumption off the premises where so permitted by resolution or ordinance of the county or municipality;

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

(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;

(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.

(b) A brewpub may transfer malt beverages in bulk containers or original consumer containers to another brewpub with which it shares more than 50 percent common ownership, provided that the receiving brewpub:

(1) Annually produces a minimum of 100 barrels of malt beverages on site at the premises for which it is licensed for the manufacturing of malt beverages;

(2) Sells the transferred malt beverages at retail directly to individuals on the premises or to licensed wholesale dealers, pursuant to the conditions and limitations of this Code section; and

(3) Sells no more than:

(A) Ten thousand barrels of malt beverages at retail annually, as provided in subparagraph (a)(2)(A) of this Code section; and

(B) Nine thousand five hundred barrels of malt beverages at wholesale annually, as provided in subparagraph (a)(2)(D).

regardless of whether such malt beverages are transferred from another brewpub or produced on site."

SECTION 6.

Said title is further amended by revising 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, as follows:

"3-5-81.

(a) The excise taxes provided for in this part shall be imposed upon and shall be paid by the licensed wholesale dealer in malt beverages; provided, however, that such taxes shall be imposed upon and shall be paid by the licensed brewer for malt beverages served or sold by the brewer directly to the public pursuant to Code Section 3-5-24.1 or Code Section 3-5-24.2.

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

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

170 file the report with each municipality or county wherein the beverages are sold by the
171 licensee.

172 (d) The licensee shall remit to the municipality or county on the tenth day of the month
173 following the calendar month in which the sales were made the tax imposed by the
174 municipality or county."

175 **SECTION 7.**

176 Said title is further amended by adding a new Code section to read as follows:

177 "3-9-5.1.

178 Notwithstanding anything contained in this title or any other provision of law, any brewer,
179 including, but not limited to a small brewer or a brewpub, may donate the malt beverages
180 it produces directly to a bona fide nonprofit civic organization that has been issued a permit
181 under this chapter or that has been issued a special event use permit under Chapter 14 of
182 this title for use, sale, and consumption at the permitted event, provided that such donations
183 of malt beverages shall not exceed the amount necessary for such event."

184 **SECTION 8.**

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