

House Bill 485

By: Representatives Glanton of the 75th, Maxwell of the 17th, and Powell of the 32nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 4 of Title 3 of the Official Code of Georgia Annotated, relating to distilled
2 spirits, so as to remove the requirement that a referendum election be held prior to the
3 issuance of licenses for the manufacture of distilled spirits; to change certain provisions
4 relating to the procedures for calling and conducting certain referendum elections and
5 nullifications thereof; to provide for related matters; to provide for an effective date; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 4 of Title 3 of the Official Code of Georgia Annotated, relating to distilled spirits,
10 is amended by revising Article 3, relating to local authorization and regulations for
11 manufacture, distribution, and package sales of distilled spirits, as follows:

12 "ARTICLE 3

13 3-4-40.

14 Licenses ~~provided for in this article are~~ for the package sale of distilled spirits shall be
15 authorized only in those counties and municipalities in which the issuance of such licenses
16 is approved by a referendum election as provided in this article. Other licenses for the
17 manufacture, distribution, and sale of distilled spirits at wholesale or retail shall be
18 authorized if such licenses are permitted and issued by the local governing authority of the
19 county or municipality.

20 3-4-41.

21 (a) A referendum election to authorize the issuance of licenses for the package sale of
22 distilled spirits may be initiated ~~Upon a~~ upon written petition containing the signatures of
23 at least 35 percent of the registered and qualified voters of any municipality or county

24 being filed with the election superintendent of the county or municipality, ~~such~~ Such
 25 superintendent, upon validation of the petition, shall be required to call and ~~hold~~ conduct
 26 a referendum election as provided for in Chapter 2 of Title 21, the 'Georgia Election Code.'
 27 for the purpose of submitting to the qualified voters of the municipality or county, as the
 28 case may be, the question of whether the ~~manufacture, sale, and distribution~~ issuance of
 29 licenses for the package sale of distilled spirits in the political subdivision shall be
 30 permitted or prohibited. Such petition shall not be amended, supplemented, or returned
 31 after its presentation to the appropriate authority. Validation shall, for the purposes of this
 32 Code section, be the procedure in which the election superintendent determines whether
 33 each signature on the petition is the name of a registered and qualified voter.

34 (b) For purposes of this Code section, the required number of signatures of registered
 35 voters of a political subdivision shall be computed based on the number of voters qualified
 36 to vote at the general election immediately preceding the presentation of the petition.
 37 Actual signers of the petition shall be registered and qualified to vote in the referendum
 38 election sought by the petition. Upon determining that the petition contains a sufficient
 39 number of valid signatures, the election superintendent shall set the date of the referendum
 40 election ~~for not less than 30 nor more than 60 days after the call. The referendum may be~~
 41 ~~held as a special referendum election or may be held at the time of holding any other~~
 42 ~~primary or election in such county or municipality if such other primary or election is to~~
 43 ~~be held not more than 60 days after the call pursuant to Code Section 21-2-540.~~

44 (c) Notice of the call for the referendum election shall be published by the election
 45 superintendent in the official organ of the county or, in the case of a municipality, in a
 46 newspaper of general circulation in the municipality. The election superintendent shall also
 47 cause the date and purpose of the referendum election to be published in the official organ
 48 of the county or, in the case of a municipality, in a newspaper of general circulation in the
 49 municipality, once a week for two weeks immediately preceding the date of the referendum
 50 election.

51 (d) Following the expiration of two years after any referendum election is held which
 52 results in the disapproval of sales as provided in this article, another referendum election
 53 on this question shall be held if another petition, as provided in subsection (a) of this Code
 54 section, is filed with the appropriate election superintendent.

55 3-4-42.

56 (a) The ballot ~~in the special election~~ used in any referendum election held pursuant to
 57 Code Section 3-4-41 shall have written or printed thereon:

58 '() YES Shall the issuance of licenses for the package sale of distilled spirits be
 59 () NO approved?'

60 (b) Those desiring to vote in favor of the issuance of the licenses shall vote 'Yes.' Those
61 desiring to vote against the issuance of the licenses shall vote 'No.'

62 (c) Any referendum election required by this article shall be held and conducted and
63 returns shall be declared and certified as provided for in Chapter 2 of Title 21, the 'Georgia
64 Election Code.' The expense for the referendum election shall be borne by the county or
65 municipality conducting the referendum election.

66 ~~3-4-43.~~

67 ~~County elections shall be held according to Chapter 2 of Title 21, the 'Georgia Election~~
68 ~~Code,' and may be held as a special election or at the time of holding any other special or~~
69 ~~general primary or special or general election in the county. Municipal elections shall be~~
70 ~~held according to Chapter 2 of Title 21, the 'Georgia Election Code,' and may be held as~~
71 ~~a special election or at the time of holding any other special or general primary or special~~
72 ~~or general election in the municipality.~~

73 ~~3-4-44.~~

74 ~~It shall be the duty of the election superintendent of the county or the municipality, as the~~
75 ~~case may be, to canvass the returns and declare and certify the results of the election to the~~
76 ~~Secretary of State. The expense for the election shall be borne by the county or the~~
77 ~~municipality conducting the election.~~

78 ~~3-4-45.~~ 3-4-43.

79 If a majority of the votes cast in a referendum election held pursuant to Code
80 Section 3-4-41 are in favor of the issuance of the licenses; for the package sale of distilled
81 spirits, then the manufacture, possession, distribution, and sale by the package sale of
82 distilled spirits in the political subdivision shall be permitted in accordance with this
83 chapter at the expiration of 15 days from the declaration date of the certification of the
84 results by the election superintendent; otherwise, the issuance of licenses for the package
85 sale of distilled spirits in the political subdivision shall be prohibited.

86 ~~3-4-46.~~

87 ~~If a majority of the votes cast are against the issuance of the licenses, the manufacture,~~
88 ~~distribution, and sale of distilled spirits in the political subdivision shall be prohibited.~~

89 ~~3-4-47.~~ 3-4-44.

90 (a) In any county or municipality which has at any time held ~~an~~ a referendum election in
91 accordance with this article, resulting in the approval of the issuance of licenses for the

92 package ~~sales~~ sale of distilled spirits, the election superintendent of the county or
 93 municipality shall, upon a ~~petition signed by at least 35 percent of the registered qualified~~
 94 ~~voters of the political subdivision concerned~~ the filing of a petition as provided in
 95 subsection (a) of Code Section 3-4-41, proceed to call another referendum election in the
 96 same manner as provided in this article for the purpose of nullifying the previous
 97 referendum election result.

98 (b) In the event an election referendum is held pursuant to subsection (a) of this Code
 99 section and a majority of the votes cast are against the issuance of licenses for the package
 100 sale of distilled spirits, then no new licenses for the package sale of distilled spirits within
 101 the political subdivision conducting the referendum shall be issued and any licensee issued
 102 an existing license for the package sale of distilled spirits shall be prohibited, effective
 103 upon the expiration of such license, from engaging in any package sales of distilled spirits
 104 within the political subdivision.

105 ~~(b)(c)~~ (c) No election held pursuant to this Code section shall be called or held within two
 106 years after the date of the declaration by the election superintendent of the ~~result~~ results of
 107 the previous election held for such purpose under this article.

108 ~~3-4-48.~~

109 ~~In the event an election held pursuant to Code Section 3-4-47 results in the nullification of~~
 110 ~~the result of a previous election approving the issuance of licenses for package sales of~~
 111 ~~distilled spirits, the manufacture, distribution, and sale by the package of distilled spirits~~
 112 ~~within the political subdivision conducting the election shall be prohibited effective upon~~
 113 ~~the expiration of all outstanding licenses for such sales within the political subdivision.~~

114 ~~3-4-49.~~ 3-4-45.

115 (a) A municipality or county may adopt ~~all reasonable rules and regulations~~ resolutions
 116 and ordinances, consistent with this title, as may fall within the police powers of the
 117 municipality or county to regulate any business described in this chapter; provided,
 118 however, that on and after July 1, 1997, no municipality or county shall authorize the
 119 location of a new retail package liquor licensed place of business or the relocation of an
 120 existing retail package liquor licensed place of business engaged in the retail package sales
 121 of distilled spirits within 500 yards of any other business licensed to sell package liquor at
 122 retail, as measured by the most direct route of travel on the ground; provided, however, that
 123 this limitation shall not apply to any hotel licensed under this chapter. The restriction
 124 provided for in this subsection shall not apply at any location for which a license has been
 125 issued prior to July 1, 1997, nor to the renewal of such license. Nor shall the restriction of
 126 this subsection apply to any location for which a new license is applied for if the sale of

127 distilled spirits was lawful at such location at any time during the 12 months immediately
 128 preceding such application.

129 (b) ~~All municipal and county authorities~~ The local governing authority of a municipality
 130 or county issuing licenses pursuant to this article shall within ~~their respective jurisdictions~~
 131 its jurisdiction have the authority to determine the location of any distillery, wholesale
 132 business, or retail business ~~licensed by them~~ it licenses, not inconsistent with this title.

133 ~~3-4-50:~~ 3-4-46.

134 The annual license fee to be charged by a municipality or county pursuant to this article
 135 shall not be more than \$5,000.00 for each license.

136 ~~3-4-51:~~ 3-4-47.

137 Any municipality which lies wholly or partially within a county which has approved the
 138 manufacture, ~~sale, or distribution,~~ or package sale of distilled spirits in a county-wide
 139 referendum election as provided in this article and which, on January 1, 1985, was issuing
 140 licenses permitting the manufacture, ~~sale, or distribution,~~ or package sale of distilled spirits
 141 shall be authorized to exercise the powers and shall be subject to the provisions contained
 142 in this title relating to the manufacture, ~~sale, or distribution,~~ or package sale of distilled
 143 spirits."

144 **SECTION 2.**

145 This Act shall become effective upon its approval by the Governor or upon its becoming law
 146 without such approval.

147 **SECTION 3.**

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