

Senate Bill 163

By: Senators Hufstetler of the 52nd, Dugan of the 30th, Albers of the 56th, Anavitarte of the 31st, Robertson of the 29th 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 for definitions; to authorize manufacturers of malt beverages to sell or donate malt
4 beverages they produce, subject to certain limitations and conditions; to provide for direct
5 donation of malt beverages by brewers and brewpubs to certain charitable events; to provide
6 that sales for consumption off the premises are not subject to a daily maximum; to permit
7 small brewers to sell a limited quantity of malt beverages at wholesale; to provide a
8 mediation process for discontinuance of agreements between small brewers and wholesalers;
9 to provide for remittance of excise and use taxes on donated malt beverages; to provide for
10 related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

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

S. B. 163

- 1 -

16 "(20.1) 'Small brewer' means a brewer or brewpub whose sales of products to such
17 brewer's or brewpub's wholesaler licensed under this title, if any, do not exceed 15
18 percent of such wholesaler's total sales in the prior calendar year."

19

SECTION 2.

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

21 "3-5-6.

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

23 (1) 'Charitable event permit holder' means a bona fide nonprofit civic organization that
24 has been issued a permit pursuant to Code Section 3-9-3 for the sale of alcoholic
25 beverages for consumption on the premises.

26 (2) 'Permitted charitable event' means an event for which a permit has been obtained by
27 a bona fide nonprofit civic organization pursuant to Code Section 3-9-3 authorizing such
28 organization to sell alcoholic beverages for consumption on the premises.

29 (b) A brewer or brewpub may directly donate malt beverages it manufactures to a
30 charitable event permit holder for a permitted charitable event, provided that:

31 (1) The amount of such donated malt beverages shall not exceed the amount necessary
32 for the permitted charitable event;

33 (2) Any donated malt beverages that are not used or consumed during the permitted
34 charitable event shall be returned to the brewer or brewpub within 24 hours of the event
35 closure or the expiration of the charitable event permit, whichever is later; and

36 (3) The donated malt beverages shall be transported to and from the permitted charitable
37 event by the charitable event permit holder or the brewer or brewpub that made the
38 donation."

39

SECTION 3.

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

43 "(b) A limited exception to the provisions of this title providing a three-tier system for the
44 distribution and sale of malt beverages shall exist to the extent that the license to
45 manufacture malt beverages in this state shall include the right to sell malt beverages to
46 individuals on the brewer's licensed premises for personal use and not for resale, subject
47 to the following terms and conditions:

48 (1) The brewer may only make sales of malt beverages to an individual while the
49 individual is physically on the brewer's licensed premises where the brewer produces malt
50 beverages;

51 (2) The brewer may make sales of malt beverages the brewer produces at the brewer's
52 licensed premises where the individual is purchasing the malt beverages;

53 (3) As long as the brewer and all of the brewer's licensed premises are under common
54 ownership, the brewer may make sales of malt beverages the brewer produces at any
55 licensed premises of the brewer and subsequently transfers in compliance with the
56 limitations and reporting obligations of subsection (c) of this Code section to the brewer's
57 licensed premises for sale where the individual is purchasing the malt beverages;

58 (4) The brewer may only make sales of malt beverages for which the brewer is the sole
59 owner of the brand and brand label;

60 (5) Sales for consumption on the premises are not subject to a daily maximum amount;

61 (6) Sales for consumption off the premises ~~shall not exceed a maximum of 288 ounces~~
62 ~~of malt beverages per individual per day~~ are not subject to a daily maximum amount; and

63 (7) The maximum amount of malt beverages the brewer may sell pursuant to this
64 ~~subsection (b) of this Code section~~ in each calendar year shall be 6,000 barrels in the
65 aggregate among all brewer's licensed premises making such sales."

66

SECTION 4.

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

68 "3-5-24.2.

69 (a) Notwithstanding the provisions of Code Section 3-5-24.1 and as a limited exception
70 to the provisions of this title providing a three-tier system for the distribution and sale of
71 malt beverages, the license to manufacture malt beverages in this state shall include for
72 small brewers the right to:

73 (1) Sell per calendar year up to 3,000 barrels of malt beverages produced at the small
74 brewer's licensed premises at wholesale to retailers licensed in this state that are located
75 within a 100 mile radius of the small brewer's licensed premises;

76 (2) Sell, deliver, and ship its malt beverages to other licensed brewers and brewpubs; and

77 (3) Acquire and receive deliveries and shipments of such malt beverages made by other
78 licensed brewers and brewpubs.

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

81

SECTION 5.

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

85 "3-5-27.

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

SECTION 6.

91

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

93 "3-5-31.1.

94 (a) As used in this Code section, the term 'discontinue' or 'discontinuance' means
95 termination, cancellation, nonrenewal, or any other method that ends an agreement.

96 (b) A small brewer may discontinue an agreement with a wholesaler by providing such
97 wholesaler with at least 30 days' written notice of such discontinuance. Such written notice
98 shall identify any successor wholesalers, including, but not limited to, the small brewer
99 itself if the small brewer sells malt beverages at wholesale pursuant to Code Section
100 3-5-24.2, that will begin servicing the affected territory upon discontinuance of such
101 agreement by the small brewer.

102 (c) Upon any discontinuance provided for under subsection (b) of this Code section, the
103 successor wholesaler shall compensate the discontinued wholesaler in an amount equal to
104 the fair market value of the small brewer's distribution rights granted to the discontinued
105 wholesaler in the territory previously served by such discontinued wholesaler.

106 (d) A discontinuance sought under subsection (b) of this Code section shall:

107 (1) Take effect on the date specified in the small brewer's written notice, which shall not
108 be less than 30 days from the date such notice is sent to the wholesaler; and

109 (2) Become effective regardless of whether all successor wholesalers have compensated
110 the discontinued wholesaler as provided in subsection (c) of this Code section.

111 (e) If any successor wholesaler and the discontinued wholesaler are unable within 30 days
112 following the small brewer's notice of discontinuance to agree on the fair market value
113 compensation due to the discontinued wholesaler as provided in subsection (c) of this Code
114 section, the discontinued wholesaler or any successor wholesaler may request that the
115 amount of such compensation be determined by mediation.

116 (f) Mediations as to compensation due to a discontinued wholesaler shall be conducted
117 before a single impartial mediator selected by the parties or, if the parties cannot agree on

118 an arbitrator within 30 days of the discontinued wholesaler or any successor wholesaler
119 requesting arbitration, by a mediator selected by a process established by the commissioner
120 as provided for in rules and regulations. The mediation proceeding shall be subject to the
121 following conditions and procedures:

122 (1) The mediation proceeding shall conclude not later than 90 days after the date
123 mediation was requested, unless the parties agree to extend such time by mutual
124 agreement or the selected mediator extends the time for good cause shown;

125 (2) The costs of the mediator shall be equally divided between the parties engaged in the
126 mediation; provided, however, that the mediator may award the prevailing party in such
127 dispute the costs of the mediator and reasonable attorney's fees for good cause shown;
128 and

129 (3) Except for injunctive relief, no lawsuit or other legal action concerning the dispute
130 may be filed until the mediation is completed and is unsuccessful, unless necessary to
131 avoid expiration of a statute of limitations.

132 (g) A small brewer's authorization to distribute its own malt beverage products pursuant
133 to Code Section 3-5-24.2 shall revert back to the small brewer, in the absence of good
134 cause, following the fifth business day after confirmed receipt of written notice of such
135 reversion by the small brewer to the wholesaler. Upon such reversion:

136 (1) The small brewer shall pay the discontinued wholesaler the fair market value for the
137 distribution rights for the affected brand; and

138 (2) If a dispute arises as to the fair market value, either party may request mediation to
139 resolve the dispute in accordance with the procedures provided under subsection (f) of
140 this Code section."

141

SECTION 7.

142 Said title is further amended by revising Code Section 3-5-81, relating to payment of tax by
143 wholesale dealers generally, time of payment, and reports by dealers as to quantities of
144 beverages sold, as follows:

145 "3-5-81.

146 (a) The excise taxes provided for in this part shall be imposed upon and shall be paid by
147 the licensed wholesale dealer in malt beverages; provided, however, that such taxes shall
148 be imposed upon and shall be paid by the licensed brewer or brewpub for malt beverages
149 served or sold by the brewer directly to the public pursuant to Code Section 3-5-24.1 or
150 donated by the brewer or brewpub pursuant to Code Section 3-5-6.

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

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

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

162

SECTION 8.

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