

Senate Bill 219

By: Senators Ginn of the 47th, Albers of the 56th, Mullis of the 53rd, Parent of the 42nd,  
Anavitarte of the 31st 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 to sell a limited quantity of malt beverages  
4 at retail on the premises for consumption on and off of the premises; to provide for the  
5 transfer of a limited quantity of malt beverages by small brewers and brewpubs; to provide  
6 for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

12 "(20.1) 'Small brewer' means any brewer that produces fewer than six million barrels of  
13 malt beverages per year and in which another brewer that produces six million or more  
14 barrels of malt beverages a year has no greater than a 25 percent ownership interest,  
15 controlling interest, or the equivalent economic interest."

16

**SECTION 2.**

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

18 "3-5-24.2.

19 (a) Notwithstanding the provisions of Code Section 3-5-24.1 and as a limited exception  
20 to the provisions of this title, providing a three-tier system for the distribution and sale of  
21 malt beverages shall exist to the extent that, for small brewers, the license to manufacture  
22 malt beverages in this state shall include the right to sell up to 3,000 barrels of malt  
23 beverages per year of those produced at the small brewer's licensed premises to individuals  
24 who are on such premises for consumption both on and off the premises.

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

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

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

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

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

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

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

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

49 **SECTION 3.**

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

53 "3-5-27.

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

60 **SECTION 4.**

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

63 "3-5-36.

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

- 67 (1) No individual shall be permitted to own or operate a brewpub without first obtaining  
68 a proper license from the commissioner in the manner provided in this title, and each  
69 brewpub licensee shall comply with all other applicable state and local license  
70 requirements;
- 71 (2) A brewpub license authorizes the holder of such license to:
- 72 (A) Manufacture on the licensed premises not more than 10,000 barrels of malt  
73 beverages in a calendar year solely for retail sale;
- 74 (B) Operate an eating establishment that shall be the sole retail outlet for such malt  
75 beverages;
- 76 (C) Operate an eating establishment that may offer for sale for consumption on the  
77 premises any other alcoholic beverages produced by other manufacturers which are  
78 authorized for retail sale under this title, including wine, distilled spirits, and malt  
79 beverages, provided that such alcoholic beverages are purchased from a licensed  
80 wholesaler; and, provided, further, that in addition to draft beer manufactured on the  
81 premises, each brewpub licensee shall offer for sale commercially available canned or  
82 bottled malt beverages from licensed wholesalers; and
- 83 (D) Notwithstanding any other provision of this paragraph, sell up to a maximum of  
84 5,000 barrels annually of such malt beverages to licensed wholesale dealers. Under no  
85 circumstances shall such malt beverages be sold by a brewpub licensee to any person  
86 holding a retail consumption dealer's license or a retailer's license for the purpose of  
87 resale;
- 88 (3) Possession of a brewpub license shall not prevent the holder of such license from  
89 obtaining a retail consumption dealer's license or a retailer's license for the same  
90 premises;
- 91 (4) A brewpub license holder shall not be prohibited from selling wine or malt beverages  
92 by the package for consumption off the premises where so permitted by resolution or  
93 ordinance of the county or municipality;

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

97 (6) A brewpub licensee shall:

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

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

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

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

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

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

115 (3) Sells no more than:

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

118 (B) Five thousand barrels of malt beverages at wholesale annually, as provided in  
119 subparagraph (a)(2)(D).

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

122 **SECTION 5.**

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

126 "3-5-81.

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

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

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

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

143 **SECTION 6.**

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