

Senate Bill 303

By: Senators Jones of the 25th, McKoon of the 29th, Miller of the 49th, Mullis of the 53rd, Murphy of the 27th and others

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 provide that an election superintendent shall call and hold a referendum
3 election upon the filing of a resolution or ordinance by the governing authority of a
4 municipality or county desiring to permit or prohibit the manufacture, distribution, and
5 package sale of distilled spirits within its jurisdiction; to change certain provisions relating
6 to the procedures for calling and conducting the referendum election and nullification
7 thereof; to change the form of ballots for the referendum election; to provide for related
8 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

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

14 style="text-align:center">"ARTICLE 3

15 3-4-40.

16 Licenses provided for in this article are authorized only in those counties and municipalities
17 in which the issuance of such licenses is approved by a referendum election as provided
18 in this article.

19 3-4-41.

20 (a) A referendum election to authorize the manufacture, distribution, and package sale of
21 distilled spirits may be initiated by either:

22 (1)(A) Upon a A written petition containing the signatures of at least 35 percent of the
23 registered and qualified voters of any municipality or county being filed with the
24 election superintendent of the county or municipality, ~~such~~ Such superintendent, upon

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

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

45 (2) The passage of a resolution or ordinance of any governing authority of a municipality
 46 or county indicating its desire to permit or prohibit the manufacture, distribution, and
 47 package sale of distilled spirits in the political subdivision. Upon such resolution or
 48 ordinance being filed with the election superintendent of the county or municipality, such
 49 superintendent shall be required to call and conduct a referendum election as provided
 50 for in Chapter 2 of Title 21, the 'Georgia Election Code,' for the purpose of submitting
 51 to the qualified voters of the municipality or county, as the case may be, the question of
 52 whether the manufacture, distribution, and package sale of distilled spirits in the political
 53 subdivision shall be permitted or prohibited. The election superintendent shall set the date
 54 of the referendum election pursuant to Code Section 21-2-540.

55 ~~(c)~~(b) Notice of the call for the referendum election shall be published by the election
 56 superintendent in the official organ of the county or, in the case of a municipality, in a
 57 newspaper of general circulation in the municipality. The election superintendent shall also
 58 cause the date and purpose of the referendum election to be published in the official organ
 59 of the county or, in the case of a municipality, in a newspaper of general circulation in the
 60 municipality, once a week for two weeks immediately preceding the date of the referendum
 61 election.

62 ~~(d)~~(c) Following the expiration of two years after any referendum election is held which
 63 results in the disapproval of sales as provided in this article, another referendum election
 64 on this question shall be held if another petition, as provided in paragraph (1) of
 65 subsection (a) of this Code section, or an ordinance or resolution, as provided in paragraph
 66 (2) of subsection (a) of this Code section, is filed with the appropriate election
 67 superintendent.

68 3-4-42.

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

71 '() YES Shall the issuance of licenses for the manufacture, distribution, and the

72 '() NO package sale of distilled spirits be approved?'

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

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

79 ~~3-4-43.~~

80 ~~County elections shall be held according to Chapter 2 of Title 21, the 'Georgia Election~~
 81 ~~Code,' and may be held as a special election or at the time of holding any other special or~~
 82 ~~general primary or special or general election in the county. Municipal elections shall be~~
 83 ~~held according to Chapter 2 of Title 21, the 'Georgia Election Code,' and may be held as~~
 84 ~~a special election or at the time of holding any other special or general primary or special~~
 85 ~~or general election in the municipality.~~

86 ~~3-4-44.~~

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

91 ~~3-4-45.~~ 3-4-43.

92 If a majority of the votes cast in a referendum election held pursuant to Code Section
 93 3-4-41 are in favor of the issuance of ~~the~~ licenses; for the manufacture, distribution, and
 94 package sale of distilled spirits, then the manufacture, possession, distribution, and ~~sale by~~
 95 ~~the package~~ sale of distilled spirits in the political subdivision shall be permitted in
 96 accordance with this chapter at the expiration of 15 days from the ~~declaration~~ date of the
 97 certification of the results by the election superintendent; otherwise, the manufacture,
 98 distribution, and package sale of distilled spirits in the political subdivision shall be
 99 prohibited.

100 ~~3-4-46.~~

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

103 ~~3-4-47.~~ 3-4-44.

104 (a) In any county or municipality which has at any time held ~~an~~ a referendum election in
 105 accordance with this article, resulting in the approval of the issuance of licenses for the
 106 manufacture, distribution, and package sales sale of distilled spirits, the election
 107 superintendent of the county or municipality shall, upon a ~~petition signed by~~ at least 35
 108 percent of the registered qualified voters of the political subdivision concerned the filing
 109 of a petition, as provided in paragraph (1) of subsection (a) of Code Section 3-4-41, or an
 110 ordinance or resolution, as provided in paragraph (2) of subsection (a) of Code Section
 111 3-4-41, proceed to call another referendum election in the same manner as provided in this
 112 article for the purpose of nullifying the previous referendum election result.

113 (b) In the event an election referendum is held pursuant to subsection (a) of this Code
 114 section and a majority of the votes cast are against the issuance of licenses for the
 115 manufacture, distribution, and package sale of distilled spirits, then the manufacture,
 116 distribution, and package sale of distilled spirits within the political subdivision conducting
 117 the referendum election shall be prohibited effective upon the expiration of all outstanding
 118 licenses for such manufacture, distribution, and package sale of distilled spirits within the
 119 political subdivision; otherwise, the manufacture, distribution, and package sale of distilled
 120 spirits within the political subdivision conducting the referendum election shall remain
 121 authorized.

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

125 ~~3-4-48.~~

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

131 ~~3-4-49.~~ 3-4-45.

132 (a) A municipality or county may adopt ~~all reasonable rules and regulations~~ resolutions
 133 and ordinances, consistent with this title, as may fall within the police powers of the
 134 municipality or county to regulate any business described in this chapter; provided,
 135 however, that on and after July 1, 1997, no municipality or county shall authorize the
 136 location of a new retail package liquor licensed place of business or the relocation of an
 137 existing retail package liquor licensed place of business engaged in the retail package sales
 138 of distilled spirits within 500 yards of any other business licensed to sell package liquor at
 139 retail, as measured by the most direct route of travel on the ground; provided, however, that
 140 this limitation shall not apply to any hotel licensed under this chapter. The restriction
 141 provided for in this subsection shall not apply at any location for which a license has been
 142 issued prior to July 1, 1997, nor to the renewal of such license. Nor shall the restriction of
 143 this subsection apply to any location for which a new license is applied for if the sale of
 144 distilled spirits was lawful at such location at any time during the 12 months immediately
 145 preceding such application.

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

150 ~~3-4-50.~~ 3-4-46.

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

153 ~~3-4-51.~~ 3-4-47.

154 Any municipality which lies wholly or partially within a county which has approved the
 155 manufacture, ~~sale, or distribution, or package sale~~ of distilled spirits in a county-wide
 156 referendum election as provided in this article and which, on January 1, 1985, was issuing
 157 licenses permitting the manufacture, ~~sale, or distribution, or package sale~~ of distilled spirits
 158 shall be authorized to exercise the powers and shall be subject to the provisions contained

159 in this title relating to the manufacture, ~~sale, or distribution,~~ or package sale of distilled
160 spirits."

161 **SECTION 2.**

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

164 **SECTION 3.**

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