

House Bill 485 (AS PASSED HOUSE AND SENATE)

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 or distribution of distilled spirits; to change certain
4 provisions relating to the procedures for calling and conducting certain referendum elections
5 and nullifications thereof; to provide for related matters; to provide for an effective date; to
6 repeal 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 adding a new Code section to Article 2, relating to state license requirements
11 and regulations for manufacture, distribution, and package sales, to read as follows:

12 "3-4-24.2.

13 The commissioner may issue licenses for the manufacture or distribution of distilled spirits
14 in any county or municipality of this state in which licenses for such activity have been
15 authorized and issued in accordance with the adoption of a resolution or ordinance by the
16 local governing authority of such county or municipality. The local governing authority
17 of a county or municipality issuing licenses pursuant to this Code section shall within its
18 jurisdiction have the authority to determine the location of any licensed businesses, not
19 inconsistent with this title."

20 **SECTION 2.**

21 Said chapter is further amended by revising Article 3, relating to local authorization and
22 regulations for manufacture, distribution, and package sales of distilled spirits, as follows:

23

"ARTICLE 3

24 3-4-40.

25 Licenses ~~provided for in this article are~~ for the package sale of distilled spirits shall be
 26 authorized only in those counties and municipalities in which the issuance of such licenses
 27 is approved by a referendum election as provided in this article.

28 3-4-41.

29 (a) A referendum election to authorize the issuance of licenses for the package sale of
 30 distilled spirits may be initiated ~~Upon a~~ upon written petition containing the signatures of
 31 at least 35 percent of the registered and qualified voters of any municipality or county
 32 being filed with the election superintendent of the county or municipality, ~~such~~ Such
 33 superintendent, upon validation of the petition, shall be required to call and ~~hold~~ conduct
 34 a referendum election as provided for in Chapter 2 of Title 21, the 'Georgia Election Code,'
 35 for the purpose of submitting to the qualified voters of the municipality or county, as the
 36 case may be, the question of whether the ~~manufacture, sale, and distribution~~ issuance of
 37 licenses for the package sale of distilled spirits in the political subdivision shall be
 38 permitted or prohibited. Such petition shall not be amended, supplemented, or returned
 39 after its presentation to the appropriate authority. Validation shall, for the purposes of this
 40 Code section, be the procedure in which the election superintendent determines whether
 41 each signature on the petition is the name of a registered and qualified voter.

42 (b) For purposes of this Code section, the required number of signatures of registered
 43 voters of a political subdivision shall be computed based on the number of voters qualified
 44 to vote at the general election immediately preceding the presentation of the petition.
 45 Actual signers of the petition shall be registered and qualified to vote in the referendum
 46 election sought by the petition. Upon determining that the petition contains a sufficient
 47 number of valid signatures, the election superintendent shall set the date of the referendum
 48 election for not less than 30 nor more than 60 days after the call. The referendum may be
 49 held as a special referendum election or may be held at the time of holding any other
 50 primary or election in such county or municipality if such other primary or election is to
 51 be held not more than 60 days after the call.

52 (c) Notice of the call for the referendum election shall be published by the election
 53 superintendent in the official organ of the county or, in the case of a municipality, in a
 54 newspaper of general circulation in the municipality. The election superintendent shall also
 55 cause the date and purpose of the referendum election to be published in the official organ
 56 of the county or, in the case of a municipality, in a newspaper of general circulation in the

57 municipality, once a week for two weeks immediately preceding the date of the referendum
58 election.

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

63 3-4-42.

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

66 '() YES Shall the issuance of licenses for the package sale of distilled spirits be

67 () NO approved?'

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

70 3-4-43.

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

77 3-4-44.

78 It shall be the duty of the election superintendent of the county or the municipality, as the
79 case may be, to canvass the returns and declare and certify the results of the election to the
80 Secretary of State. The expense for the election shall be borne by the county or the
81 municipality conducting the election.

82 3-4-45.

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

90 ~~3-4-46.~~

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

93 ~~3-4-47. 3-4-46.~~

94 (a) In any county or municipality which has at any time held ~~an~~ a referendum election in
 95 accordance with this article, resulting in the approval of the issuance of licenses for the
 96 package ~~sales~~ sale of distilled spirits, the election superintendent of the county or
 97 municipality shall, upon a petition signed by at least 35 percent of the registered qualified
 98 ~~voters of the political subdivision concerned~~ the filing of a petition as provided in
 99 subsection (a) of Code Section 3-4-41, proceed to call another referendum election in the
 100 same manner as provided in this article for the purpose of nullifying the previous
 101 referendum election result.

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

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

112 ~~3-4-48.~~

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

118 ~~3-4-49. 3-4-47.~~

119 (a) A municipality or county may adopt ~~all reasonable rules and regulations~~ resolutions
 120 and ordinances, consistent with this title, as may fall within the police powers of the
 121 municipality or county to regulate any business described in this chapter; provided,
 122 however, that on and after July 1, 1997, no municipality or county shall authorize the
 123 location of a new retail package liquor licensed place of business or the relocation of an

124 existing retail package liquor licensed place of business engaged in the retail package sales
 125 of distilled spirits within 500 yards of any other business licensed to sell package liquor at
 126 retail, as measured by the most direct route of travel on the ground; provided, however, that
 127 this limitation shall not apply to any hotel licensed under this chapter. The restriction
 128 provided for in this subsection shall not apply at any location for which a license has been
 129 issued prior to July 1, 1997, nor to the renewal of such license. Nor shall the restriction of
 130 this subsection apply to any location for which a new license is applied for if the sale of
 131 distilled spirits was lawful at such location at any time during the 12 months immediately
 132 preceding such application.

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

137 ~~3-4-50:~~ 3-4-48.

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

140 ~~3-4-51:~~ 3-4-49.

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

148 **SECTION 3.**

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

151 **SECTION 4.**

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