

House Bill 879 (AS PASSED HOUSE AND SENATE)

By: Representatives Harrell of the 106th, Carpenter of the 4th, Powell of the 32nd, Stephens of the 164th, Frye of the 118th, 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 and change certain regulations as to the sale and consumption of
3 alcoholic beverages; to provide for the Department of Revenue to develop and implement
4 a state-wide, centralized application process for retailers for initial applications and renewals
5 for licenses and permits; to provide for uniform procedures and forms for such online
6 process; to provide for remittance and reporting of application fees; to provide methods by
7 which the governing authority of a municipality or county may extend the hours of Sunday
8 sales of alcoholic beverages for consumption on the premises and for consumption off the
9 premises if Sunday sales of such alcoholic beverages are already lawful as a result of a
10 passage of a referendum; to provide the requirements and procedures of referendums,
11 ordinances, and resolutions to extend the hours on Sundays during which certain alcoholic
12 beverages may be sold; to provide for referendums; to provide for the legislative intent of the
13 General Assembly to exercise strict regulatory control over the three-tier system; to permit
14 certain retailers to make deliveries of alcoholic beverages pursuant to specific terms and
15 conditions; to provide for definitions; to allow certain retailers to market, receive, and
16 process orders for alcoholic beverages using electronic means owned, operated, or
17 maintained by third parties; to provide for the relationship between such retailers and third
18 parties; to provide certain requirements for individuals making deliveries; to provide for
19 warrantless searches and seizures by certain agents and officers of the Department of
20 Revenue; to provide for training on sales and delivery of alcoholic beverages; to provide for
21 the commissioner of revenue to promulgate certain rules and regulations; to provide for
22 penalties; to provide that licenses for retail sale packages of alcoholic beverages for
23 consumption off the premises shall be subject to regulation as to distances from college
24 campuses as determined by the local governing authority; to provide an exception; to provide
25 that retail package liquor stores may conduct tasting events at which samples of alcoholic
26 beverages may be served; to provide for terms and conditions of tasting events; to specify
27 that manufacturers and wholesalers may provide samples of alcoholic beverages to retail
28 dealers under certain conditions; to provide for the promulgation of rules and regulations by

29 the state revenue commissioner; to revise certain provisions for purposes of conformity; to
 30 provide for related matters; to provide an effective date; to repeal conflicting laws; and for
 31 other purposes.

32 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

33 **SECTION 1.**

34 Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages, is
 35 amended by adding a new Code section to read as follows:

36 "3-2-7.1.

37 (a) On or before January 1, 2021, the department shall develop and implement a
 38 state-wide, centralized application process for initial applications and renewals for licenses
 39 and permits for retailers in order to provide for uniform and streamlined practices with
 40 respect to such application and renewal process that both the department and any local
 41 governing authority of any county or municipality that issues licenses or permits to retailers
 42 shall be required to use. Such process shall provide for such licenses and permits for
 43 retailers that may be issued by the department and by the governing authority of any county
 44 or municipality to be applied for and renewed online. The department in developing and
 45 implementing such process shall consider input from retailers, local governments, and the
 46 associations that represent them.

47 (b) The department shall prescribe uniform procedures and forms for the initial application
 48 and renewal for licenses and permits for retailers to be used in the state-wide, centralized
 49 application process and shall provide for the local governing authority of any county or
 50 municipality to provide electronic forms to be added to such process for any additional
 51 information that is necessary in order to determine if a local license or local permit may be
 52 issued or renewed that such local governing authority demonstrates substantially differs
 53 from that requested through the procedures and forms developed by the department, such
 54 as, but not limited to, any distance requirements.

55 (c) The state-wide, centralized application process shall ensure that any initial application
 56 or renewal is sent simultaneously upon completion to the department and the appropriate
 57 local governing authority; provided, however, that the department may require that a valid
 58 local license or permit be issued prior to granting a license or permit.

59 (d) The state-wide, centralized application process shall provide for the remittance and
 60 reporting of all fees for initial applications and renewals for licenses and permits for
 61 retailers and may do so by requiring the applicant to pay the department and the local
 62 governing authorities of the county or municipality separately at the time the initial
 63 application or renewal is submitted.

- 64 (e) The department shall administer the state-wide, centralized application process and
 65 shall provide access to the necessary authorized users.
 66 (f) The commissioner shall adopt rules and regulations necessary to implement and
 67 administer the provisions this Code section."

68 **SECTION 1A.**

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

70 "3-3-1.1.

71 (a) This title has been enacted pursuant to the authority granted to the state under the
 72 Twenty-first Amendment to the United States Constitution, the powers reserved to the state
 73 under the Tenth Amendment to the United States Constitution, and the inherent powers of
 74 the state under the Constitution of the State of Georgia of 1983. It is the intent of the
 75 General Assembly that this title do all of the following:

76 (1) Further regulate and control alcoholic beverage transactions in this state under the
 77 control and supervision of the commissioner;

78 (2) Promote and assure the public's interest in fair and efficient distribution and quality
 79 control of alcoholic beverages in this state;

80 (3) Promote orderly marketing of alcoholic beverages;

81 (4) Prevent unfair business practices, discrimination, and undue control of one segment
 82 of the alcoholic beverage industry by any other segment;

83 (5) Foster vigorous and healthy competition in the alcoholic beverage industry;

84 (6) Preserve and promote a robust, stable system of distribution of alcoholic beverages
 85 to the public;

86 (7) Provide for an orderly system of public revenues by facilitating the collection and
 87 accountability of this state and local excise taxes;

88 (8) Facilitate the collection of state and local revenue;

89 (9) Promote the health, safety, and welfare of residents of this state by, among other
 90 purposes, ensuring that the commissioner shall be able to inspect and seize any alcoholic
 91 beverage shipped into, distributed, and sold throughout this state and ensuring that any
 92 such alcoholic beverage:

93 (A) Has been registered for sale in this state with the commissioner;

94 (B) Is not subject to a government mandated or supplier initiated recall;

95 (C) Is not counterfeit;

96 (D) Is labeled in conformance with applicable laws, rules, and regulations;

97 (E) Can be tested by the commissioner or an agent assigned by the commissioner; and

98 (F) Is not prohibited by this state; and

99 (10) Promote and maintain a sound, stable, and viable three-tier system of distribution
 100 of alcoholic beverages to the public.
 101 (b) If any provision of this title or its application to any person or circumstance is
 102 determined by a court or other authority of competent jurisdiction to be invalid or
 103 unconstitutional, such provision shall be stricken and the remaining provisions shall be
 104 construed in accordance with the intent of the General Assembly to further limit rather than
 105 expand commerce in alcoholic beverages, and with respect to alcoholic beverages, the
 106 remaining provisions shall be construed to enhance strict regulatory control over the
 107 taxation, manufacture, distribution, and sale of alcoholic beverages through the three-tier
 108 regulatory system and the licensing laws imposed by this title."

109 SECTION 2.

110 Said title is further amended in Code Section 3-3-7, relating to local authorization and
 111 regulation of sales of alcoholic beverages on Sunday, by adding new subsections to read as
 112 follows:

113 "(j.2)(1) Notwithstanding any other provisions of law, on and after the effective date of
 114 this Code section, in all counties or municipalities in which governing authority has been
 115 authorized pursuant to a referendum held under this Code section to permit the sale of
 116 alcoholic beverages for consumption on the premises on Sundays from 12:30 P.M. until
 117 12:00 Midnight and has been authorized pursuant to a referendum held pursuant to
 118 subsection (p) of this Code section to permit package sales of malt beverages and wine,
 119 but not distilled spirits, on Sundays from 12:30 P.M. to 11:30 P.M., the governing
 120 authority of the county or municipality may, by resolution or ordinance conditioned on
 121 approval in a referendum, authorize on Sundays from 11:00 A.M. until 12:00 Midnight
 122 the sale of:

123 (A) Alcoholic beverages for consumption on the premises in any licensed
 124 establishment which derives at least 50 percent of its total annual gross sales from the
 125 sale of prepared meals or food in all of the combined retail outlets of the individual
 126 establishment where food is served and in any licensed establishment which derives at
 127 least 50 percent of its total annual gross income from the rental of rooms for overnight
 128 lodging; and

129 (B) Packages sales of malt beverages and wine.

130 (2) Any governing authority desiring to permit and regulate such Sunday sales pursuant
 131 to this subsection, but only after a referendum election, shall so provide by proper
 132 resolution or ordinance conditioned on a referendum. Not less than ten nor more than
 133 60 days after the date of approval of such resolution or ordinance, it shall be the duty of
 134 the election superintendent of the county or municipality to issue the call for an election

135 for the purpose of submitting the question of such Sunday sales to the electors of the
 136 county or municipality for approval or rejection. The superintendent shall set the date of
 137 the election for a day not less than 30 nor more than 60 days after the date of the issuance
 138 of the call. The superintendent shall cause the date and purpose of the election to be
 139 published in the official organ of the county once a week for two weeks immediately
 140 preceding the date thereof. The ballot shall have written or printed thereon the words:

141 ' () YES Shall the governing authority of (name of municipality or county) be
 142 authorized to permit and regulate Sunday sales of malt beverages and
 143 () NO wine by the drink from 11:00 A.M. to 12:00 Midnight and Sunday
 144 sales of malt beverages and wine by the package from 11:00 A.M. to
 145 12:00 Midnight?'

146 All persons desiring to vote for approval of such Sunday sales shall vote 'Yes,' and those
 147 persons desiring to vote for rejection of such Sunday sales shall vote 'No.' If more than
 148 one-half of the votes cast on the question are for approval of such Sunday sales, the
 149 governing authority may by appropriate resolution or ordinance permit and regulate such
 150 Sunday sales by licensees. Otherwise, such Sunday sales shall not be permitted. The
 151 expense of the election shall be borne by the county or municipality in which the election
 152 is held. It shall be the duty of the superintendent to hold and conduct the election. It
 153 shall be his or her further duty to certify the result thereof to the Secretary of State.

154 (3) Notwithstanding this subsection or any other provision of law, all county or
 155 municipal resolutions or ordinances enacted prior to the effective date of this Code
 156 section pursuant to the authorizations granted by any other provision of this Code section
 157 are declared to be valid and shall remain in full force and effect unless affirmatively
 158 repealed by the governing authority of the county or municipality.

159 (j.3)(1) Notwithstanding any other provisions of law, on and after the effective date of
 160 this Code section, in all counties or municipalities in which governing authority has been
 161 authorized pursuant to a referendum held under this Code section to permit the sale of
 162 alcoholic beverages for consumption on the premises on Sundays from 12:30 P.M. until
 163 12:00 Midnight and has been authorized pursuant to a referendum held under
 164 subsection (q) of this Code section to permit package sales of malt beverages, wine, and
 165 distilled spirits on Sundays from 12:30 P.M. to 11:30 P.M., the governing authority of the
 166 county or municipality may, by resolution or ordinance conditioned on approval in a
 167 referendum, authorize on Sundays from 11:00 A.M. until 12:00 Midnight the sale of:

168 (A) Alcoholic beverages for consumption on the premises in any licensed
 169 establishment which derives at least 50 percent of its total annual gross sales from the
 170 sale of prepared meals or food in all of the combined retail outlets of the individual
 171 establishment where food is served and in any licensed establishment which derives at

172 least 50 percent of its total annual gross income from the rental of rooms for overnight
 173 lodging; and

174 (B) Packages sales of malt beverages, wine, and distilled spirits.

175 (2) Any governing authority desiring to permit and regulate such Sunday sales pursuant
 176 to this subsection, but only after a referendum election, shall so provide by proper
 177 resolution or ordinance conditioned on a referendum. Not less than ten nor more than
 178 60 days after the date of approval of such resolution or ordinance, it shall be the duty of
 179 the election superintendent of the county or municipality to issue the call for an election
 180 for the purpose of submitting the question of such Sunday sales to the electors of the
 181 county or municipality for approval or rejection. The superintendent shall set the date of
 182 the election for a day not less than 30 nor more than 60 days after the date of the issuance
 183 of the call. The superintendent shall cause the date and purpose of the election to be
 184 published in the official organ of the county once a week for two weeks immediately
 185 preceding the date thereof. The ballot shall have written or printed thereon the words:

186 ' () YES Shall the governing authority of (name of municipality or county) be
 187 authorized to permit and regulate Sunday sales of malt beverages,
 188 () NO wine, and distilled spirits by the drink from 11:00 A.M. to
 189 12:00 Midnight and by the package from 11:00 A.M. to
 190 12:00 Midnight?'

191 All persons desiring to vote for approval of such Sunday sales shall vote 'Yes,' and those
 192 persons desiring to vote for rejection of such Sunday sales shall vote 'No.' If more than
 193 one-half of the votes cast on the question are for approval of such Sunday sales, the
 194 governing authority may by appropriate resolution or ordinance permit and regulate such
 195 Sunday sales by licensees. Otherwise, such Sunday sales shall not be permitted. The
 196 expense of the election shall be borne by the county or municipality in which the election
 197 is held. It shall be the duty of the superintendent to hold and conduct the election. It
 198 shall be his or her further duty to certify the result thereof to the Secretary of State.

199 (3) Notwithstanding this subsection or any other provision of law, all county or
 200 municipal resolutions or ordinances enacted prior to the effective date of this Code
 201 section pursuant to the authorizations granted by any other provision of this Code section
 202 are declared to be valid and shall remain in full force and effect unless affirmatively
 203 repealed by the governing authority of the county or municipality."

204 "(p.1) Notwithstanding other laws, in all counties or municipalities in which package sales
 205 by retailers of malt beverages and wine, but not distilled spirits, have been authorized on
 206 Sunday from 12:30 P.M. to 11: 30 P.M. pursuant to a referendum held under subsection (p)
 207 of this Code section and sales of alcoholic beverages for consumption on the premises on
 208 Sundays from 11:00 A.M. to 12:00 Midnight, including for an additional hour and a half

209 from 11:00 A.M. to 12:30 P.M., have been authorized pursuant to a referendum held under
 210 subsection (j) or (j.1) of this Code section, the governing authority of the county or
 211 municipality, as appropriate, may by adoption of a resolution or ordinance allow package
 212 sales by retailers of malt beverages and wine for consumption off the premises on Sundays
 213 from 11:00 A.M. until 12:00 Midnight. The provisions of this subsection are in addition
 214 to or cumulative of and not in lieu of any other provisions of this title relative to the sale
 215 of alcoholic beverages by retailers."

216 "(q.1) Notwithstanding other laws, in all counties or municipalities in which package sales
 217 by retailers of malt beverages, wine, and distilled spirits have been authorized on Sundays
 218 beginning from 12:30 P.M. to 11:30 P.M. pursuant to a referendum held under (q) of this
 219 Code section and sales of alcoholic beverages for consumption on the premises on Sundays
 220 from 11:00 A.M. to 12:00 Midnight have been authorized pursuant to a referendum held
 221 under subsection (j) or (j.1) of this Code section, the governing authority of the county or
 222 municipality, as appropriate, may by adoption of a resolution or ordinance allow package
 223 sales by retailers of malt beverages, wine, and distilled spirits for consumption off the
 224 premises on Sundays from 11:00 A.M. until 12:00 Midnight. The provisions of this
 225 subsection are in addition to or cumulative of and not in lieu of any other provisions of this
 226 title relative to the sale of alcoholic beverages by retailers."

227

SECTION 3.

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

229 "3-3-10.

230 (a) For purposes of this Code section, the term:

231 (1) 'Air carrier' means a person that undertakes by any means, directly or indirectly, to
 232 provide air transportation.

233 (2) 'Carrier' means any person, including without limitation any motor carrier, freight
 234 forwarder, or air carrier, whose business is to transport goods or people while acting in
 235 the capacity as common, private, or contract transporter of a product or service using its
 236 facilities or those of other carriers.

237 (3) 'Electronic means' means internet enabled technology and digital media, including,
 238 but not limited to, websites and consumer applications accessible through computers,
 239 smartphones, or other electronic devices.

240 (4) 'Employee' means an individual who is:

241 (A) A full-time or part-time employee of a packaged goods retailer; and

242 (B) Authorized to act as an agent of such packaged goods retailer.

243 (5) 'Freight forwarder' means a person holding itself out to the general public to provide
 244 transportation of property for compensation and in the ordinary course of its business:

- 245 (A) Assembles and consolidates, or provides for the assembly and consolidation of,
 246 shipments and performs or provides for break bulk and distribution operations of the
 247 shipments;
- 248 (B) Assumes responsibility for such transportation from the place of receipt to the
 249 place of destination; and
- 250 (C) Uses for any part of such transportation another freight forwarder, an air carrier,
 251 a motor carrier, or any other carrier.
- 252 (6) 'Motor carrier' means a person that provides motor vehicle transportation for
 253 compensation.
- 254 (7) 'Packaged goods retailer' means a person licensed under this title as a retailer to sell
 255 alcoholic beverages in unbroken packages for consumption off the premises that is not:
- 256 (A) A manufacturer or any other person licensed to manufacture alcoholic beverages;
 257 (B) A carrier;
 258 (C) A shipper; or
 259 (D) A person that takes delivery of alcoholic beverages directly from a:
- 260 (i) Retailer; or
 261 (ii) Manufacturer or any other person licensed to manufacture alcoholic beverages.
- 262 (8) 'Proper identification' shall have the same meaning as provided in Code
 263 Section 3-3-23.
- 264 (9) 'Third party' means:
- 265 (A) Any person that:
- 266 (i) Is registered to do business in this state;
 267 (ii) Has a contractual relationship with a packaged goods retailer;
 268 (iii) Is authorized to act as an agent of such packaged goods retailer; and
 269 (iv) Is not a manufacturer, any other person licensed to manufacture alcoholic
 270 beverages, or an affiliate of such manufacturer or such other person; or
- 271 (B) Any full-time or part-time employee or independent contractor of any person that:
- 272 (i) Is registered to do business in this state;
 273 (ii) Has a contractual relationship with such third party as defined in subparagraph
 274 (A) of this paragraph;
 275 (iii) Is authorized to act as an agent of such third party as defined in subparagraph (A)
 276 of this paragraph; and
 277 (iv) Is not a manufacturer, any other person licensed to manufacture alcoholic
 278 beverages, or an affiliate of such manufacturer or such other person.
- 279 (b) Notwithstanding any other provision of law, and except where prohibited by local
 280 ordinance or resolution, a packaged goods retailer may deliver malt beverages and wine in
 281 unbroken packages lawfully sold to and purchased by an individual for personal use and

282 not for resale to an address designated by such individual, subject to the following terms
 283 and conditions:

284 (1) The individual making the purchase shall, prior to ordering and purchasing malt
 285 beverages and wine for delivery, establish an account maintained by the packaged goods
 286 retailer that shall be available for inspection by the department;

287 (2) The packaged goods retailer or employee shall process all payments made by the
 288 individual who is transacting the purchase with the packaged goods retailer prior to the
 289 malt beverages and wine leaving such packaged goods retailer's licensed premises for
 290 delivery;

291 (3) The packaged goods retailer, employee, or third party shall assemble, package, and
 292 fulfill each order at the licensed premises of the packaged goods retailer from inventory
 293 located at such licensed premises and shall not pull from the inventory of any other
 294 person, including another retailer or licensed premises;

295 (4) All malt beverages and wine that leave the licensed premises of the packaged goods
 296 retailer for delivery shall:

297 (A) Remain in the possession of the individual, either the packaged goods retailer, the
 298 employee, or the third party, that removed it from the licensed premises for delivery
 299 and shall not be transferred to any other person until the time of delivery in compliance
 300 with the requirements of this subsection or until the time of the return to the packaged
 301 goods retailer if delivery is not made;

302 (B) Only be transported in a vehicle or other transportation device containing products
 303 or goods traveling in intrastate commerce for delivery in the local licensing jurisdiction
 304 of the licensed premises of such packaged goods retailer; and

305 (C) Not be carried, commingled, or stored with, or transported in any vehicle or other
 306 transportation device containing, products or goods traveling in interstate commerce for
 307 delivery;

308 (5) Delivery shall be made by the packaged goods retailer, employee, or third party who:

309 (A) Is at least 21 years of age;

310 (B) Has a valid Georgia driver's license;

311 (C) Has undergone within the last 12 months a background check that includes a local
 312 and national criminal history and driving records and:

313 (i) Has not had more than three moving violations in the prior three-year period;

314 (ii) Has not had a major traffic violation, as such term is defined in Code
 315 Section 40-5-142, in the prior three-year period;

316 (iii) Has not been convicted within the past seven years of driving under the influence
 317 of drugs or alcohol;

- 318 (iv) Has not been convicted at any time of fraud, a sexual offense, the use of a motor
319 vehicle to commit a felony, a crime involving property damage, a crime involving
320 theft, a crime involving an act of violence, or a crime involving an act of terror; and
321 (v) Does not have a match on the National Sex Offender Registry data base;
322 (D) Has undergone training approved by the department on sales and delivery of malt
323 beverages and wine in this state;
324 (E) Shall not possess or handle as part of or during the delivery forms of compensation
325 that are used to purchase or transact the sale of malt beverages and wine;
326 (F) Does not receive compensation based upon whether an attempted delivery results
327 in a completed transaction; and
328 (G) At all times during which the malt beverages and wine to be delivered are in the
329 vehicle, transportation device, possession, or care of such packaged goods retailer,
330 employee, or third party, shall not also have in his or her vehicle, transportation device,
331 possession, or care any products or goods traveling in interstate commerce;
332 (6) Delivery shall be made by the packaged goods retailer, employee, or third party to
333 an individual who is at least 21 years of age and presents proper identification verifying
334 the age of such individual;
335 (7) At the time of delivery, the packaged goods retailer, employee, or third party shall
336 verify the identity and age of the individual accepting delivery by validating the proper
337 identification of the individual accepting delivery in person and obtaining his or her
338 signature on a written or electronic acknowledgment of receipt of the order and
339 certification of legal age to purchase malt beverages and wine. The packaged goods
340 retailer, employee, or third party shall scan or otherwise verify the proper identification
341 of the individual accepting delivery at the time of delivery and shall retain a record of
342 such individual's name and date of birth that shall be available for inspection upon request
343 for a minimum of three years;
344 (8) The packaged goods retailer, employee, or third party conducting the delivery shall
345 refuse to make the delivery if:
346 (A) No individual is visibly present and available at the address to accept delivery; or
347 (B) The individual visibly present and available attempting to accept the delivery:
348 (i) Is less than 21 years of age;
349 (ii) Fails to produce proper identification verifying his or her age;
350 (iii) Fails to provide a signature that matches such proper identification; or
351 (iv) Is noticeably intoxicated;
352 (9) All deliveries shall be inspected at the time of delivery by the individual accepting
353 such delivery. The transaction shall be deemed complete upon acceptance of delivery of
354 the malt beverages and wine, and all sales shall be final;

- 355 (10) The delivery address shall be located within the local licensing jurisdiction of the
 356 packaged goods retailer;
- 357 (11) The delivery shall take place only during the lawful times when malt beverages and
 358 wine can be sold by the packaged goods retailer for consumption off the premises;
- 359 (12) The delivery shall be made only within the same calendar day on which the malt
 360 beverages and wine leave the licensed premises of the packaged goods retailer for
 361 delivery; and
- 362 (13) No delivery shall knowingly be made to any address or to any property that is part
 363 of:
- 364 (A) Any public or private elementary or secondary educational school, including
 365 without limitation any dormitory, housing, or common space located on the campus of
 366 any elementary or secondary educational school;
- 367 (B) Any prison, reformatory, and other correctional facilities;
- 368 (C) Any addiction or substance abuse facilities;
- 369 (D) Any locker, mailbox, package shipping location, or similar service or storage
 370 facility business; or
- 371 (E) Any retailer.
- 372 (c) A packaged goods retailer may use electronic means to market, receive, and process
 373 orders for malt beverages and wine it is licensed to sell placed by individuals who are at
 374 least 21 years of age, provided that any such orders shall be delivered in accordance with
 375 subsection (b) of this Code section.
- 376 (d) A packaged goods retailer may market, receive, and process orders for malt beverages
 377 and wine it is licensed to sell placed by individuals who are at least 21 years of age using
 378 electronic means owned, operated, or maintained by a third party, provided that any such
 379 orders shall be delivered in accordance with subsection (b) of this Code section and:
- 380 (1) The packaged goods retailer maintains control and responsibility over the sales
 381 transaction and the transfer of the physical possession of the malt beverages and wine
 382 from the inventory of such packaged goods retailer to the individual conducting the
 383 delivery in accordance with subsection (b) of this Code section;
- 384 (2) The packaged goods retailer shall retain sole discretion to determine whether to
 385 accept and complete an order or to reject an order;
- 386 (3) The purchase transaction takes place between the individual placing the order and the
 387 packaged goods retailer and the packaged goods retailer appears as the merchant of
 388 record at all times, including at the time of purchase and at the time of receipt of the
 389 delivery;

390 (4) Any credit or debit card information provided by the individual placing the order to
391 a third party for the purpose of transacting the purchase with the packaged goods retailer
392 is automatically directed to the packaged goods retailer;

393 (5) The packaged goods retailer that accepts the order receives the payment that is made
394 by the individual who is transacting the purchase with such packaged goods retailer; and

395 (6) The delivery of malt beverages and wine to the individual who placed the order is
396 made by the packaged goods retailer, employee, or third party in compliance with the
397 requirements of subsection (b) of this Code section.

398 (d.1) Notwithstanding any other provision of law, and except where prohibited by local
399 ordinance or resolution, a licensed retail package liquor store that is also a packaged goods
400 retailer may deliver distilled spirits in unbroken packages lawfully sold to and purchased
401 by an individual for personal use and not for resale in the same manner and under the same
402 terms and conditions as provided in this Code section for the delivery of malt beverages
403 and wine.

404 (e) The department shall develop a curriculum for or list of required elements of the sales
405 and delivery training required under subparagraph (b)(4)(D) of this Code section and shall
406 determine the providers approved to conduct such training. A packaged goods retailer or
407 third party may submit to the department a proposed program for such required training,
408 upon receipt of which the department shall have 15 days to approve, deny, or indicate what
409 modifications are necessary to such program.

410 (f) Persons appointed by the commissioner as special agents or enforcement officers of the
411 department shall, in addition to the powers and duties provided for in Code Section 3-2-30,
412 have the power to inspect, without a warrant, in a lawful manner any premises of the
413 packaged goods retailer or any vehicle or other transportation device being used by the
414 packaged goods retailer, employee, or third party to make a delivery under this Code
415 section for the purpose of:

416 (1) Determining if any of the provisions of this Code section or any rule or regulation
417 promulgated under its authority is being violated; or

418 (2) Securing evidence as may be needed for an administrative proceedings action, as
419 provided in this Code section or any other provisions of this title.

420 (g) The commissioner shall be authorized to promulgate and enforce such rules and
421 regulations as it may deem necessary to carry out or make effective the provisions of this
422 Code section, including, but not limited to, rules and regulations governing the training of
423 individuals making deliveries.

424 (h)(1) In addition to the commissioner's power to suspend, revoke, or cancel licenses,
425 permits, or registrations issued pursuant to this title, upon a violation of any provision of
426 this Code section or any rule or regulation promulgated thereunder, the commissioner

427 shall have the power to impose a fine not to exceed \$500.00 for each violation and may
 428 suspend for up to 30 days for each violation the authorization provided by this Code
 429 section for the packaged goods retailer to deliver malt beverages and wine or to use an
 430 employee or third party to deliver malt beverages and wine. Any violation committed by
 431 an employee or a third party shall be attributed to and deemed to be an act taken by a
 432 packaged goods retailer for purposes of this Code section. A packaged goods retailer,
 433 employee, and third party may each be fined for the same violation. Nothing in this
 434 paragraph shall be construed to allow the commissioner to suspend or terminate the
 435 authorization of a packaged goods retailer to sell malt beverages and wine on the licensed
 436 premises as a result of a violation of this Code section by a third party.

437 (2) Any local governing authority of a municipality or county that issues a license to a
 438 packaged goods retailer and allows for delivery of malt beverages and wine by a
 439 packaged goods retailer, an employee, or a third party may impose penalties upon a
 440 packaged goods retailer, employee, or third party, and may fine more than one person for
 441 the same violation, provided that such penalties do not exceed the amount of the fine or
 442 the number of delivery suspension days provided for in this paragraph. Nothing in this
 443 paragraph shall be construed to allow any local governing authority of a municipality or
 444 county to suspend or terminate the authorization of a packaged goods retailer to sell malt
 445 beverages and wine on the licensed premises as a result of a violation of this Code
 446 section.

447 (3) The penalties provided for in this Code section shall be in addition to any criminal
 448 penalties that may otherwise be provided by law."

449 **SECTION 4.**

450 Said title is further amended by revising subsection (b) of Code Section 3-3-21, relating to
 451 sales of alcoholic beverages near churches, school buildings, or other sites, as follows:

452 "(b) Nothing contained in this Code section shall prohibit the licensing of the sale or
 453 distribution of alcoholic beverages by:

454 (1) Hotels of 50 rooms or more which have been in continuous operation for a period of
 455 at least five years preceding July 1, 1981;

456 (2) Bona fide private clubs, owning their own homes, subject to licensing under
 457 Chapter 7 of this title; and

458 (3) Licensees for the retail sale of alcoholic beverages for consumption on the premises
 459 only who shall be subject to regulation as to distances from churches, schools, and
 460 ~~colleges~~ college campuses by counties and municipalities; and

461 (4) Licensees for retail sale packages of alcoholic beverages for consumption off the
 462 premises who shall be subject to regulation as to distances from college campuses by

463 counties and municipalities; provided, however, that such distances may be less
 464 restrictive than those provided in this Code section but shall not be more restrictive; and
 465 provided, further, that if such licensees are not regulated as to distances from college
 466 campuses by a county or municipality, then the distances set forth in this Code section
 467 shall govern such licensees.

468 For purposes of this subsection, the term 'college campus' shall include, but shall not be
 469 limited to, all buildings and grounds of any public or private technical school, vocational
 470 school, college, university, or other institution of postsecondary education."

471 **SECTION 5.**

472 Said title is further amended by revising Code Section 3-3-26, relating to allowing or
 473 permitting the breaking of packages or drinking of contents thereof on premises, as follows:
 474 "3-3-26.

475 (a) Except as provided in this Code section or Chapter 15 of this title, no retail package
 476 liquor store ~~No retail dealer~~ shall knowingly and intentionally allow or permit the breaking
 477 of any package or packages containing alcoholic beverages on the premises where sold or
 478 allow or permit the drinking of the contents of such package or packages on the premises
 479 where sold. ~~This Code section shall not apply with respect to sales pursuant to a license~~
 480 for consumption on the premises.

481 (b) Nothing in this title shall be construed to prohibit a representative or salesperson of a
 482 manufacturer or wholesaler from opening a package of alcoholic beverages on the premises
 483 of a retail package liquor store or other retail dealer for the purpose of providing samples
 484 of such alcoholic beverage product to a retail dealer or its employees for consumption on
 485 the licensed premises, provided that:

486 (1) All samples are provided and consumed in the presence of a representative or
 487 salesperson of the manufacturer or wholesaler in an office, storage room, or other area
 488 of the licensed premises of the retail dealer that is closed to the public; and

489 (2) Such representative or salesperson of the manufacturer or wholesaler removes from
 490 the licensed premises any packages he or she brought onto such licensed premises in
 491 order to provide samples of alcoholic beverage products.

492 For purposes of this subsection, the term 'sample' means a small amount of any malt
 493 beverage, wine, or distilled spirits.

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

496 **SECTION 6.**

497 Said title is further amended by revising Code Section 3-4-25, relating to holder of retail
 498 dealer's license authorized to sell only unbroken packages and prohibition against the
 499 breaking of packages or drinking of the contents thereof on the premises, as follows:

500 "3-4-25.

501 (a) Except as provided in Code Section 3-3-26 or Chapter 15 of this title, a ~~A~~ retail dealer's
 502 license shall authorize the holder to sell distilled spirits only in the original and unbroken
 503 package or packages, which ~~package or packages~~ shall contain not less than 50 milliliters
 504 each.

505 (b) Except as provided in Code Section 3-3-26 or Chapter 15 of this title, a retail dealer's
 506 ~~The~~ license shall not permit the breaking of the package or packages on the premises where
 507 sold and shall not permit the drinking of the contents of the package or packages on the
 508 premises where sold."

509 **SECTION 7.**

510 Said title is further amended by adding a new chapter to read as follows:

511 "CHAPTER 15

512 3-15-1.

513 As used in this chapter, the term:

514 (1) 'Licensed premises' means any premises in which any alcoholic beverages are sold
 515 in unbroken packages and shall include any premises which are required by law to be
 516 licensed to sell any alcoholic beverages in unbroken packages.

517 (2) 'Licensee' means the holder of a retail package liquor store license.

518 (3) 'Operator' means an owner, licensee, operator, manager, or person in charge of any
 519 licensed premises.

520 (4) 'Sample' means a small amount of any malt beverage, wine, or distilled spirits.

521 (5) 'Tasting event' means a scheduled event hosted by a licensee at which free samples
 522 may be provided and that may be open to the general public or limited by invitation.

523 3-15-2.

524 Notwithstanding any other provision of this title, in all counties and municipalities in which
 525 the sale of alcoholic beverages is lawful, retail package liquor stores shall be authorized to
 526 conduct up to 52 tasting events per calendar year, subject to the following terms and
 527 conditions:

- 528 (1) A tasting event shall only take place on the licensed premises and only at times at
529 which such alcoholic beverages may be lawfully sold on such licensed premises;
- 530 (2) Only one tasting event per day may be held on the licensed premises and such tasting
531 event shall not exceed four hours;
- 532 (3) Only one type of alcoholic beverage may be served at a tasting event, either malt
533 beverages, wine, or distilled spirits; provided, however, that more than one brand of such
534 type of alcoholic beverage may be offered so long as not more than four packages are
535 open at any one time;
- 536 (4) If the tasting event is for malt beverages, a consumer shall not be served more than
537 eight ounces of malt beverages during such tasting event. If the tasting event is for wine,
538 a consumer shall not be served more than five ounces of wine during such tasting event.
539 If the tasting event is for distilled spirits, a consumer shall not be served more than one
540 and one-half ounces of distilled spirits during such tasting event;
- 541 (5) Only alcoholic beverages that the licensee is licensed to sell on the licensed premises
542 may be offered as part of a tasting event, and such alcoholic beverages shall be part of the
543 licensee's inventory;
- 544 (6) Only food that is lawful to sell on the licensed premises, under this title or under any
545 rules or regulations of the commissioner, may be served as part of a tasting event. Such
546 food shall be offered at no cost to the consumer;
- 547 (7) Any operator or employee of the licensee may refuse to provide any brand, type, or
548 quantity of alcoholic beverage to any consumer;
- 549 (8) The licensee shall notify the governing authority of the county or municipality in
550 which the licensed premises is located prior to holding a tasting event;
- 551 (9) Any broken package containing alcoholic beverages on the licensed premises that is
552 not licensed for retail sales for consumption on the premises shall be kept locked in a
553 secure room or cabinet by the operator of the licensed premises except when in use
554 during a tasting event;
- 555 (10) Representatives and salespersons of manufacturers or wholesalers may attend a
556 tasting event; provided, however, that such representatives and salespersons shall not host
557 the tasting event, pour any alcoholic beverage, or provide anything of value to any
558 consumer or to the licensee or an employee of a licensee; and
- 559 (11) Any other terms, conditions, and limitations as may be required or imposed by the
560 governing authority of the county or municipality in which the licensed premises is
561 located.

562 3-15-3.

563 The commissioner shall promulgate and enforce such rules and regulations as he or she
564 may deem reasonable and necessary to effectuate the provisions of this chapter.

565 3-15-4.

566 Upon a violation by a retail dealer of any provision of this chapter or any rule or regulation
567 promulgated thereunder, the commissioner shall have the power to place conditions or
568 limitations on such retail dealer's license and to modify or amend such conditions or
569 limitations."

570 **SECTION 8.**

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

573 **SECTION 9.**

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