

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

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"3-2-7.1.

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

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

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

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

(10) Promote and maintain a sound, stable, and viable three-tier system of distribution of alcoholic beverages to the public.

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

SECTION 2.

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

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

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

(B) Packages sales of malt beverages and wine.

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

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

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

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

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

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

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

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

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

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

' () YES Shall the governing authority of (name of municipality or county) be authorized to permit and regulate Sunday sales of malt beverages, wine, and distilled spirits by the drink from 11:00 A.M. to 12:00 Midnight and by the package from 11:00 A.M. to 12:00 Midnight?'

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

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

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

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

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

SECTION 3.

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

"3-3-10.

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

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

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

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

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

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

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

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

(A) Assembles and consolidates, or provides for the assembly and consolidation of, shipments and performs or provides for break bulk and distribution operations of the shipments;

(B) Assumes responsibility for such transportation from the place of receipt to the place of destination; and

(C) Uses for any part of such transportation another freight forwarder, an air carrier, a motor carrier, or any other carrier.

(6) 'Motor carrier' means a person that provides motor vehicle transportation for compensation.

(7) 'Packaged goods retailer' means a person licensed under this title as a retailer to sell alcoholic beverages in unbroken packages for consumption off the premises that is not:

(A) A manufacturer or any other person licensed to manufacture alcoholic beverages;

(B) A carrier;

(C) A shipper; or

(D) A person that takes delivery of alcoholic beverages directly from a:

(i) Retailer; or

(ii) Manufacturer or any other person licensed to manufacture alcoholic beverages.

(8) 'Proper identification' shall have the same meaning as provided in Code Section 3-3-23.

(9) 'Third party' means:

(A) Any person that:

(i) Is registered to do business in this state;

(ii) Has a contractual relationship with a packaged goods retailer;

(iii) Is authorized to act as an agent of such packaged goods retailer; and

(iv) Is not a manufacturer, any other person licensed to manufacture alcoholic beverages, or an affiliate of such manufacturer or such other person; or

(B) Any full-time or part-time employee or independent contractor of any person that:

(i) Is registered to do business in this state;

(ii) Has a contractual relationship with such third party as defined in subparagraph

(A) of this paragraph;

(iii) Is authorized to act as an agent of such third party as defined in subparagraph (A) of this paragraph; and

(iv) Is not a manufacturer, any other person licensed to manufacture alcoholic beverages, or an affiliate of such manufacturer or such other person.

(b) Notwithstanding any other provision of law, and except where prohibited by local ordinance or resolution, a packaged goods retailer may deliver malt beverages and wine in unbroken packages lawfully sold to and purchased by an individual for personal use and

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

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

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

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

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

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

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

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

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

(A) Is at least 21 years of age;

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

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

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

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

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

(iv) Has not been convicted at any time of fraud, a sexual offense, the use of a motor vehicle to commit a felony, a crime involving property damage, a crime involving theft, a crime involving an act of violence, or a crime involving an act of terror; and

(v) Does not have a match on the National Sex Offender Registry data base;

(D) Has undergone training approved by the department on sales and delivery of malt beverages and wine in this state;

(E) Shall not possess or handle as part of or during the delivery forms of compensation that are used to purchase or transact the sale of malt beverages and wine;

(F) Does not receive compensation based upon whether an attempted delivery results in a completed transaction; and

(G) At all times during which the malt beverages and wine to be delivered are in the vehicle, transportation device, possession, or care of such packaged goods retailer, employee, or third party, shall not also have in his or her vehicle, transportation device, possession, or care any products or goods traveling in interstate commerce;

(6) Delivery shall be made by the packaged goods retailer, employee, or third party to an individual who is at least 21 years of age and presents proper identification verifying the age of such individual;

(7) At the time of delivery, the packaged goods retailer, employee, or third party shall verify the identity and age of the individual accepting delivery by validating the proper identification of the individual accepting delivery in person and obtaining his or her signature on a written or electronic acknowledgment of receipt of the order and certification of legal age to purchase malt beverages and wine. The packaged goods retailer, employee, or third party shall scan or otherwise verify the proper identification of the individual accepting delivery at the time of delivery and shall retain a record of such individual's name and date of birth that shall be available for inspection upon request for a minimum of three years;

(8) The packaged goods retailer, employee, or third party conducting the delivery shall refuse to make the delivery if:

(A) No individual is visibly present and available at the address to accept delivery; or

(B) The individual visibly present and available attempting to accept the delivery:

(i) Is less than 21 years of age;

(ii) Fails to produce proper identification verifying his or her age;

(iii) Fails to provide a signature that matches such proper identification; or

(iv) Is noticeably intoxicated;

(9) All deliveries shall be inspected at the time of delivery by the individual accepting such delivery. The transaction shall be deemed complete upon acceptance of delivery of the malt beverages and wine, and all sales shall be final;

(10) The delivery address shall be located within the local licensing jurisdiction of the packaged goods retailer;

(11) The delivery shall take place only during the lawful times when malt beverages and wine can be sold by the packaged goods retailer for consumption off the premises;

(12) The delivery shall be made only within the same calendar day on which the malt beverages and wine leave the licensed premises of the packaged goods retailer for delivery; and

(13) No delivery shall knowingly be made to any address or to any property that is part of:

(A) Any public or private elementary or secondary educational school, including without limitation any dormitory, housing, or common space located on the campus of any elementary or secondary educational school;

(B) Any prison, reformatory, and other correctional facilities;

(C) Any addiction or substance abuse facilities;

(D) Any locker, mailbox, package shipping location, or similar service or storage facility business; or

(E) Any retailer.

(c) A packaged goods retailer may use electronic means to market, receive, and process orders for malt beverages and wine it is licensed to sell placed by individuals who are at least 21 years of age, provided that any such orders shall be delivered in accordance with subsection (b) of this Code section.

(d) A packaged goods retailer may market, receive, and process orders for malt beverages and wine it is licensed to sell placed by individuals who are at least 21 years of age using electronic means owned, operated, or maintained by a third party, provided that any such orders shall be delivered in accordance with subsection (b) of this Code section and:

(1) The packaged goods retailer maintains control and responsibility over the sales transaction and the transfer of the physical possession of the malt beverages and wine from the inventory of such packaged goods retailer to the individual conducting the delivery in accordance with subsection (b) of this Code section;

(2) The packaged goods retailer shall retain sole discretion to determine whether to accept and complete an order or to reject an order;

(3) The purchase transaction takes place between the individual placing the order and the packaged goods retailer and the packaged goods retailer appears as the merchant of record at all times, including at the time of purchase and at the time of receipt of the delivery;

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 4.

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

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

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

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

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

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

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

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

SECTION 5.

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

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

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

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

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

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

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

SECTION 6.

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

"3-4-25.

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

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

SECTION 7.

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

"CHAPTER 15

3-15-1.

As used in this chapter, the term:

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

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

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

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

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

3-15-2.

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

(1) A tasting event shall only take place on the licensed premises and only at times at which such alcoholic beverages may be lawfully sold on such licensed premises;

(2) Only one tasting event per day may be held on the licensed premises and such tasting event shall not exceed four hours;

(3) Only one type of alcoholic beverage may be served at a tasting event, either malt beverages, wine, or distilled spirits; provided, however, that more than one brand of such type of alcoholic beverage may be offered so long as not more than four packages are open at any one time;

(4) If the tasting event is for malt beverages, a consumer shall not be served more than eight ounces of malt beverages during such tasting event. If the tasting event is for wine, a consumer shall not be served more than five ounces of wine during such tasting event. If the tasting event is for distilled spirits, a consumer shall not be served more than one and one-half ounces of distilled spirits during such tasting event;

(5) Only alcoholic beverages that the licensee is licensed to sell on the licensed premises may be offered as part of a tasting event, and such alcoholic beverages shall be part of the licensee's inventory;

(6) Only food that is lawful to sell on the licensed premises, under this title or under any rules or regulations of the commissioner, may be served as part of a tasting event. Such food shall be offered at no cost to the consumer;

(7) Any operator or employee of the licensee may refuse to provide any brand, type, or quantity of alcoholic beverage to any consumer;

(8) The licensee shall notify the governing authority of the county or municipality in which the licensed premises is located prior to holding a tasting event;

(9) Any broken package containing alcoholic beverages on the licensed premises that is not licensed for retail sales for consumption on the premises shall be kept locked in a secure room or cabinet by the operator of the licensed premises except when in use during a tasting event;

(10) Representatives and salespersons of manufacturers or wholesalers may attend a tasting event; provided, however, that such representatives and salespersons shall not host the tasting event, pour any alcoholic beverage, or provide anything of value to any consumer or to the licensee or an employee of a licensee; and

(11) Any other terms, conditions, and limitations as may be required or imposed by the governing authority of the county or municipality in which the licensed premises is 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.