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ALCOHOLIC BEVERAGES Package of bills related to alcoholic beverages which would have affected various titles

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**THE FOLLOWING ARTICLE ADDRESSES A
PACKAGE OF BILLS RELATED TO ALCOHOLIC
BEVERAGES WHICH WOULD HAVE AFFECTED A
VARIETY OF ARTICLES IN THE OFFICIAL CODE
OF GEORGIA ANNOTATED.**

* * *

ALCOHOLIC BEVERAGES

Regulation of Alcoholic Beverages Generally: Amend Chapter 3 of Title 3 of the Official Code of Georgia Annotated, Relating to the Local Authorization and Regulation of Sales of Alcoholic Beverages on Sunday, so as to Provide That in Each County in Which the Sale of Alcoholic Beverages is Lawful in Such County and in All Municipalities Within Such County in Which the Sale of Alcoholic Beverages Is Lawful, the Governing Authority of the County or Municipality, as Appropriate, May Authorize the Retail Sale of Malt Beverages and Wine at Any Time on Sundays if Sunday Retail Sales of Malt Beverages and Wine Are Approved by Referendum; Provide Procedures; Provide for Applicability; Provide for Related Matters; Repeal Conflicting Laws; and for Other Purposes

BILL NUMBER:

SB 26

SUMMARY:

The bill would have allowed counties and municipalities that currently permit the sales of alcoholic beverages to authorize the retail sale of malt beverages and wine at any time on Sunday. The bill would also have provided for procedures for its implementation.

ALCOHOLIC BEVERAGES

Wine: Amend Article 1 of Chapter 6 of Title 3 of the Official Code of Georgia Annotated, Relating to General Provisions Relative to Wine, so as to Authorize Restaurant Patrons to Remove for Off-Premises Consumption a Resealed Partially Consumed Bottle of Wine That Was Purchased with a Meal; Amend Article 11 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, Relating to Miscellaneous Provisions of the Uniform Rules of the Road, so as to Provide That a Resealed Partially Consumed Bottle of Wine That Was Purchased with a Meal Is Not an Open Alcoholic Beverage Container for Purposes of the Prohibition Against Possessing an Open Container of Alcohol in the Passenger Area of a Motor Vehicle; Provide for Related Matters; Repeal Conflicting Laws; and for Other Purposes

BILL NUMBER:

SB 55

SUMMARY:

The bill would have authorized restaurant patrons to remove for off-premises consumption a resealed, partially consumed bottle of wine that was purchased with a meal. It also would have provided that a resealed, partially-consumed bottle of wine that was purchased with a meal is not an open alcoholic beverage container for purposes of the prohibition against possessing an open container of alcohol in the passenger area of a motor vehicle.

ALCOHOLIC BEVERAGES

Regulation of Alcoholic Beverages Generally: Amend Title 3 of Chapter 3 of the Official Code of Georgia Annotated, Relating to the Local Authorization and Regulation of Sales of Alcoholic Beverages on Sunday, so as to Provide That in Each County or Municipality in Which Package Sales of Certain Alcoholic Beverages by Retailers Are Lawful, the Governing Authority of the County or Municipality, as Appropriate, May Authorize Package Sales by a Retailer of Such Alcoholic Beverages for Any Period of Time on Sundays from 12:00 Noon until 12 Midnight, if Approved by Referendum; Provide Procedures; Provide for Applicability; Provide for Related Matters; Repeal Conflicting Laws; and for Other Purposes

BILL NUMBER:

SB 137

SUMMARY:

The bill would have provided that in each county or municipality where sales of alcoholic beverages by retailers are lawful, the county or municipality could authorize retail sales of alcoholic beverages, including beer, wine, and spirits, on Sundays from any period of time from 12:00 noon to 12:00 midnight, if approved by a referendum. A public election would be held to vote on whether to allow Sunday sales. If the county or municipality approved Sunday sales, upon receipt of a proper resolution or ordinance of the governing authority or upon receipt of a written petition signed by at least 35% of the registered qualified voters, the county or municipality could proceed to call another election for the purpose of nullifying the previous election.

ALCOHOLIC BEVERAGES

Regulation of Alcoholic Beverages Generally: Amend Chapter 3 of Title 3 of the Official Code of Georgia Annotated, Relating to the Local Authorization and Regulation of Alcoholic Beverages on Sunday, so as to Provide That in Each County or Municipality in Which Package Sales of Certain Alcoholic Beverages by Retailers Are Lawful, the Governing Authority of the County or Municipality, as Appropriate, May Authorize Package Sales by a Retailer of Such Alcoholic Beverages on Sundays Beginning at 12:00 Noon, if Approved by Referendum; Provide Procedures; Provide for Applicability; Provide for Related Matters; Repeal Conflicting Laws; and for Other Purposes

BILL NUMBER:

SB 138

SUMMARY:

The bill would have provided that in each county or municipality where sales of alcoholic beverages by retailers are lawful, the county or municipality could authorize retail sales of alcoholic beverages on Sundays beginning at 12:00 noon, if approved by a referendum. However, sales on Sundays were limited to beer and wine. Once the county or municipality passed the resolution or ordinance, a public election would be held to vote on whether to allow Sunday sales.

ALCOHOLIC BEVERAGES

Wine: Amend Article 2 of Chapter 6 of Title 3 of the Official Code of Georgia Annotated, Relating to the State License Requirements and Regulations for the Distribution and Sale of Wine, so as to Provide for the Direct Shipment of Certain Quantities of Wine to Georgia Residents over the Age of 21; Provide for the Issuance of Wine Direct Shipper Licenses if Certain Requirements Are Met; Prohibit Certain Actions by Wine Direct Shipper Licensees; Provide for Wine Direct Shipper License Renewals; Provide for Powers, Duties, and Authority of the State Revenue Commissioner; Provide for Civil and Criminal Violations; Provide for Related Matters; Repeal Conflicting Laws; and for Other Purposes

BILL NUMBER:

HB 159

SUMMARY:

The bill would have provided for the direct shipment of certain quantities of wine to Georgia residents over the age of twenty-one.

ALCOHOLIC BEVERAGES

Wine: Amend Article 2 of Chapter 6 of Title 3 of the Official Code of Georgia Annotated, Relating to State License Requirements and Regulations for Distribution and Sale of Wine, so as to Change Certain Provisions Relating to Licensing of Farm Wineries to Engage in Retail and Wholesale Sales, Surety Bond, and Excise Taxes; Change Certain Provisions Relating to Sale by Farm Wineries of Wines, Distilled Spirits, and Malt Beverages on or Contiguous to Its Own Premises; Change Certain Provisions Relating to Creation of Limited Exceptions so as to Permit Direct Shipment of Wine; Provide for Farm Winery Special Order Shipping Licenses; Regulate Direct Shipment of Wine to Consumers by Holders of Such Licenses; Repeal Conflicting Laws; and for Other Purposes

BILL NUMBER:

HB 393

SUMMARY:

The bill would have relaxed the rules for in-state shipments by Georgia wineries.

History

Bars and restaurants can serve beer, wine, and liquor on Sundays in Georgia if approved by local governments.¹ Georgia, along with Indiana and Connecticut, is one of three states in the country that completely bans the sale of beer and wine for off-premises consumption on Sundays.² Georgia provides two exceptions to its strict “blue laws,” allowing Sunday sales on military bases and at most wine-tasting rooms.³

1. O.C.G.A. § 3-3-7 (Supp. 2007).

2. See James Salzer, *Georgia to Consider Sunday Beer and Wine Sales*, ATLANTA J.-CONST., Dec. 12, 2006, at A1, available at http://www.ajc.com/news/content/shared/news/stories/2006/12/GA_ALCOHOL_1212_COX.html.

3. *Georgia Wineries Taste Blue Law Freedom*, ATLANTA J.-CONST., Mar. 4, 2007, at F1.

Relaxing Georgia's alcoholic beverage laws, including the possibility of Sunday sales in the traditionally conservative state of Georgia, was considered contentious, but because 2007 was not an election year for lawmakers, some believed that such changes were possible.⁴ Accordingly, Senator Seth Harp (R-29th) introduced a package of bills to allow the retail sale of alcoholic beverages on Sundays.⁵ Senator Harp began by introducing Senate Bill 26, which provided for Sunday sales of malt beverages and wine, but not liquor.⁶ He later filed two additional bills to let voters decide whether to allow stores to sell liquor on Sundays as well.⁷ Senator Harp stated that he introduced the bills "in part because of complaints that liquor store owners would be put at an unfair disadvantage" if Sundays were reserved exclusively to beer and wine sales.⁸ In SB 137, local voters would decide on allowing beer, wine, and hard liquor sales; SB 138 permitted local voters to vote to allow all three, or solely beer and wine.⁹

Senator Renee Unterman (R-45th) joined with Senator Harp to introduce SB 55, also known as "Merlot to Go," which allows for restaurant patrons to remove partially consumed bottles of wine, which were purchased with a meal, for off-premises consumption.¹⁰

In the House, Representative Wendell Willard (R-49th) introduced another alcohol-related bill, HB 159, to provide for the direct shipment of wine to Georgia residents.¹¹ Another House bill, HB 393, was introduced by Representative Ron Stephens (R-164th) to change requirements and regulations related to licensing of farm wineries and to change certain provisions relating to sales of alcohol at wineries.¹²

Senator Harp felt that the "overwhelming majority of the people of Georgia want to have the opportunity to vote on an issue that will

4. *See id.*

5. SB 26, as introduced, 2007 Ga. Gen. Assem.; SB 137, as introduced, 2007 Ga. Gen. Assem.; SB 138, as introduced, 2007 Ga. Gen. Assem.

6. *See* SB 26, as introduced, 2007 Ga. Gen. Assem.

7. *See* SB 137, as introduced, 2007 Ga. Gen. Assem.; SB 138, as introduced, 2007 Ga. Gen. Assem.

8. *See* James Salzer, *Liquor Joins Sunday Sales Push*, ATLANTA J.-CONST., Feb. 10, 2007, at A1, available at 2007 WLNR 2666761.

9. *Id.*

10. *See* SB 55, as introduced, 2007 Ga. Gen. Assem.

11. HB 159, as introduced, 2007 Ga. Gen. Assem.

12. HB 393, as introduced, 2007 Ga. Gen. Assem.

allow them to purchase alcohol products on Sunday.”¹³ However, Sunday sales faced sharp opposition from religious conservatives who refused to support the idea of expanding alcohol sales the same day church services are held.¹⁴

Legislative Tracking

The Senate read SB 26 on January 22, 2007, SB 55 on January 26, 2007, and referred the bills to the appropriate committees. The Senate read SB 137 and SB 138 on February 10 and then sent it to committee. HB 159 and HB 393 were read on January 25 and February 13, 2007, respectively.¹⁵ Although some bills made it out of committee, none was eventually passed.

SB 26

Senators Seth Harp (R-29th), Preston Smith (R-52nd), Doug Stoner (D-6th), David Adelman (D-42nd), John Bulloch (R-11th), and Nan Orrock (D-36th), respectively, sponsored SB 26, which provided for the amendment of Code section 3-3-7 of the Official Code of Georgia Annotated to allow the retail sale of beer and wine on Sundays, if approved by referendum.¹⁶ The Senate read SB 26 on January 22, 2007, and referred it to the Regulated Industries and Utilities Committee.¹⁷ The Committee did not hold a hearing on SB 26 and did not vote the bill out of committee.¹⁸

SB 55

Senators Renee Unterman (R-45th), Cecil Staton (R-18th), Don Balfour (R-9th), Nan Orrock (D-36th), Seth Harp (R-29th), and Eric

13. *Lawmakers 2007* (GPTV broadcast, Feb. 18, 2007) (on file with Georgia State University Law Review).

14. See Vicky Eckenrode, *Senate Committee Clears Sunday Alcohol Sales Bill*, SAVANNAH MORNING NEWS, Mar. 14, 2007, available at <http://savannahnow.com/node/242579>.

15. See State of Georgia Final Composite Status Sheet, HB 159, 393, June 5, 2007.

16. SB 26, as introduced, 2007 Ga. Gen. Assem.

17. State of Georgia Final Composite Status Sheet, HB 26, June 5, 2007.

18. See *id.*

Johnson (R-1st) sponsored SB 55.¹⁹ The bill was read to the Senate for the first time on January 26, 2007.²⁰ The bill was favorably reported by the Senate Regulated Industries and Utilities Committee on February 22, 2007, and read for a second time on February 27, 2007.²¹ It was read a third time on February 28, 2007, and passed and adopted by the Senate that same day by a vote of 48 to 4.²²

The bill was read for the first time in the House on March 1, 2007, and for a second time on March 19, 2007, but was never voted out of the House Committee on Regulated Industries before the end of the session.²³

Senate Bill 55, also known as “Merlot to Go” would have amended Code section 3-6-1 of the Official Code of Georgia Annotated, regarding general provisions relative to wine, to authorize restaurant patrons to remove for off-premises consumption a resealed partially-consumed bottle of wine that was purchased with a meal.²⁴ It also would have amended Code section 40-6-253 of the Official Code of Georgia Annotated, relating to consumption of alcoholic beverages or possession of open containers of alcoholic beverages in passenger areas of vehicles, to provide that a resealed partially consumed bottle of wine that was purchased with a meal would not be an open alcoholic beverage container for purposes of the prohibition against possessing an open container of alcohol in the passenger area of a motor vehicle.²⁵

SB 137

Senators Seth Harp (R-29th), Doug Stoner (D-6th), David Adelman (D-42nd), John Bulloch (R-11th), Vincent Fort (D-39th), and Curt Thompson (D-5th) sponsored SB 137.²⁶ The Senate first read the bill on February 10, 2007, and referred it to the Senate

19. SB 55, as introduced, 2007 Ga. Gen. Assem.

20. State of Georgia Final Composite Status Sheet, SB 55, June 5, 2007.

21. *Id.*

22. *Id.*; Georgia Senate Voting Record, SB 55 (Feb. 28, 2007).

23. State of Georgia Final Composite Status Sheet, SB 55, June 5, 2007.

24. SB 55, as introduced, 2007 Ga. Gen. Assem.; see James Salzer, “Merlot to Go” Bill Passes Senate, Posting to Capitol Updates Blog, AJC.COM, Feb. 28, 2007, http://www.ajc.com/blogs/content/shared-blogs/ajc/georgia/entries/2007/02/28/merlot_to_go_bi.html.

25. SB 55, as passed Senate, 2007 Ga. Gen. Assem.

26. SB 137, as introduced, 2007 Ga. Gen. Assem.

Regulated Industries and Utilities Committee.²⁷ The committee held a hearing on the bill on February 28, 2007. The committee, stating concerns relating to the language of the bill, voted to send the bill to subcommittee to address the bill's wording.²⁸

SB 137 was reported on favorably by the Senate Regulated Industries and Utilities Committee on March 19, 2007, and read for a second time on March 20, 2007.²⁹ However, the Senate Rules Committee decided not to schedule the bill for a floor vote, which some argued was a procedural attempt to stop the bill's chances at passing.³⁰ The Senate leadership concluded that the bill would have taken a long time to debate and that there were not enough votes to pass the bill.³¹ Senator Harp made an attempt to attach SB 137 as an amendment to another alcohol bill that passed in the Senate, but the maneuver was unsuccessful.³²

Senate Bill 137 would have provided that in each county or municipality where sales of alcoholic beverages by retailers are lawful, the county or municipality could authorize retail sales of alcoholic beverages on Sundays from any period of time from 12:00 noon to 12:00 midnight, if approved by a referendum.³³ The bill did not limit retail sales to beer and wine, but provided for the retail sales of beer, wine, and liquor.³⁴ Once the county or municipality passed the resolution or ordinance, a public election would be held to vote on whether to allow Sunday sales.³⁵ The expense of the election would be borne by the county or municipality in which the election would be held.³⁶ If more than half of the voters approved Sunday

27. State of Georgia Final Composite Status Sheet, SB 137, June 5, 2007.

28. See Student Observation of the Senate Regulated Industries and Utilities Committee Meeting (Feb. 28, 2007) [hereinafter Senate Notes] (remarks by Sen. David Shafer (R-48th)) (on file with the Georgia State University Law Review). The committee was concerned with the "shall" language in the bill relating to sale times, seeing that it could prevent flexibility on the part of a county or municipality that wanted to start or end sales at times other than noon and midnight. See *id.*

29. State of Georgia Final Composite Status Sheet, SB 137, June 5, 2007.

30. See *id.*; Vicky Eckenrode, *Sunday Alcohol Sales Bill Dies*, SAVANNAH MORNING NEWS, Mar. 26, 2007, available at <http://savannahnow.com/node/250233/print>.

31. Eckenrode, *supra* note 30.

32. See Denis O'Hayer, *New Life for Sunday Booze Sales?*, 11 ALIVE NEWS (Ga.), Mar. 30, 2007, available at http://www.wxia.com/news/article_news.aspx?storyid=94609.

33. SB 137 (SCS), 2007 Ga. Gen. Assem.

34. *Id.*

35. *Id.*

36. *Id.*

sales, then Sunday sales could be allowed, and the effective date would be determined by the ordinance or resolution.³⁷

The bill also had a “repealer.”³⁸ If the county or municipality approved Sunday sales, upon receipt of a proper resolution or ordinance of the governing authority or upon receipt of a written petition signed by at least 35% of the registered qualified voters, the county or municipality was required to call another election for the purpose of nullifying the previous election.³⁹

SB 138

Senators Seth Harp (R-29th), Doug Stoner (D-6th), David Adelman (D-42nd), John Bulloch (R-11th), Vincent Fort (D-39th), and Curt Thompson (D-5th) sponsored SB 138.⁴⁰ The Senate first read the bill on February 10, 2007, and referred it to the Senate Regulated Industries and Utilities Committee.⁴¹ The Committee held a hearing on both SB 137 and 138 on February 28, 2007, but did not hold a vote on SB 138 and thus did not vote the bill out of committee.⁴²

SB 138 would have amended Code section 3-3-7 of the Official Code of Georgia Annotated, which relates to the authorization and regulation of the sales of alcoholic beverages on Sunday.⁴³ The bill would have provided that in each county or municipality where sales of alcoholic beverages by retailers are lawful, the county or municipality could authorize retail sales of alcoholic beverages on Sundays beginning at 12:00 noon, if approved by a referendum.⁴⁴ However, sales on Sundays were limited to beer and wine.⁴⁵ Once the county or municipality passed the resolution or ordinance, a public election would be held to vote on whether to allow Sunday sales.⁴⁶

37. *Id.*

38. See Telephone Interview with Sen. Seth Harp (R-29th) (May 9, 2007) [hereinafter Harp Interview].

39. SB 137 (SCS), 2007 Ga. Gen. Assem.

40. SB 138, as introduced, 2007 Ga. Gen. Assem.

41. State of Georgia Final Composite Status Sheet, SB 138, June 5, 2007.

42. *Id.*

43. SB 138, as introduced, 2007 Ga. Gen. Assem.

44. *Id.*

45. *Id.*

46. *Id.*

The expense of the election would be borne by the county or municipality in which the election would be held, and the effective date if passed would be determined by the ordinance or resolution.⁴⁷

HB 159

Representatives Wendell Willard (R-49th), Harry Geisinger (R-48th), Edward Lindsey (R-54th), Stephanie Benfield (D-85th), and Joe Wilkinson (R-52nd) sponsored HB 159.⁴⁸ The bill was first read on January 25, 2007, and again on January 26, 2007, but no House committee held a hearing on the bill.⁴⁹ The bill would have added a new Code section 3-6-33 to the Official Code of Georgia Annotated, relating to the state license requirements and regulations for the distribution and sale of wine, to provide for the direct shipment of certain quantities of wine to Georgia residents over the age of twenty-one.⁵⁰

HB 393

Representatives Ron Stephens (R-164th), Roger Williams (R-4th), Steve Tumlin (R-38th), Amos Amerson (R-9th), Jay Shaw (D-176th), and Butch Parrish (R-156th), respectfully, sponsored HB 393.⁵¹ The bill was read for the first time on February 13, 2007, and again on February 14, 2007.⁵² The House Committee on Regulated Industries, by a unanimous vote, favorably reported the bill on February 21, 2007, but the bill was withdrawn and recommitted on April 20, 2007.⁵³ The bill would have relaxed the rules for in-state shipments by Georgia wineries.⁵⁴

47. *Id.*

48. HB 159, as introduced, 2007 Ga. Gen. Assem.

49. State of Georgia Final Composite Status Sheet, HB 159, June 5, 2007.

50. HB 159, as introduced, 2007 Ga. Gen. Assem.

51. HB 393, as introduced, 2007 Ga. Gen. Assem.

52. State of Georgia Final Composite Status Sheet, HB 393, June 5, 2007.

53. *Id.*; see James Salzer, *Wine Sale Proposal Advances in House*, ATLANTA J.-CONST., Feb. 21, 2007, at B1, available at 2007 WLNR 3383907.

54. HB 393, as introduced, 2007 Ga. Gen. Assem.

*Analysis**The Battle over Sunday Sales and Relaxing Alcoholic Beverage Laws in Georgia*

In December 2006, speculation over the new session and potential alcohol bills began.⁵⁵ Initially, Georgia's conservative lawmakers indicated that any Sunday beer and wine sales bills would be "dead on arrival."⁵⁶ These legislators wanted to avoid "rousing preachers, teetotalers, and other Georgians who think the Lord's Day shouldn't include a trip to the grocery store for a six-pack of tallboys."⁵⁷ However, despite this sentiment, a push developed to relax Georgia's alcoholic beverage laws, and some legislators privately began to think that Sunday sales could stand a chance in the new session.⁵⁸

Three circumstances contributed to the buzz that 2007 could be the year in which Georgia revisited its Blue Laws.⁵⁹ First, 2007 was not an election year.⁶⁰ Jim Tudor, a lobbyist for the convenience store industry, said that if the bill could ever succeed, then 2007 would be the year.⁶¹ Representative Jeanette Jamieson (D-28th) echoed the sentiment: "If [an alcohol bill is] ever going to have a chance, it will have to be this year because nobody is going to vote for it during an election year."⁶² Matt Towery, a former Republican state lawmaker and CEO of the subscription news service InsiderAdvantage, also attributed the push for Sunday sales to the fact that 2007 was not an election year.⁶³ As a result, Towery believed that lawmakers would feel free to debate the controversial legislation rather than fear how their stance would be immediately used against them in their

55. See Salzer, *supra* note 8.

56. *Id.*

57. *Id.*

58. *See id.*

59. *See id.*

60. *See id.*

61. Salzer, *supra* note 8.

62. *Id.*

63. James Salzer, *Bill Will Allow Consumers to Order Wine Shipped Directly From Maker*, ATLANTA J.-CONST., Feb. 2, 2007, at A1, available at 2007 WLNR 2013994.

reelection campaigns.⁶⁴ In fact, Towery even thought that the bills became “sort of the cause-celebre.”⁶⁵

The second indication of a serious push toward amending Georgia’s Blue Laws was the powerful and accomplished team of lobbyists assembled by those supporting the modification of alcoholic beverage laws in Georgia.⁶⁶ Morgan Perry Cook, a former top staffer for Governor Sonny Perdue and Senate President Pro-Tempore Eric Johnson (R-1st) joined the grocery-store lobby to push the bills.⁶⁷

A third indicator was the finding that many constituents, particularly those residents who were new to Georgia, wanted Sunday sales.⁶⁸ A January poll commissioned by the *Atlanta Journal-Constitution* found that 68% of Georgians supported the local-option legislation for allowing the sale of alcohol on Sundays.⁶⁹ This poll also indicated even stronger support in metro Atlanta, where 80% of respondents favored the legislation.⁷⁰ Jim Tudor, a lobbyist for the convenience store industry said, “[t]he South has changed, [and] the country has changed What’s driving this is customers. If we didn’t think our customers wanted this, why should we go through the aggravation?”⁷¹

Despite this swelling of support, proponents were initially silent about what the bill would say and who would sponsor the bill as they feared an “early backlash from preachers.”⁷² However, this silence was broken when Senator Seth Harp (R-29th) introduced SB 26 on January, 22, 2007.⁷³

While Sunday sales had found a sponsor, this step was only the first hurdle to be cleared. First, Senator David Shafer (R-48th), Chairman of the House Regulated Industries and Utilities Committee,

64. *Id.*

65. *Id.*

66. Salzer, *supra* note 8.

67. *Id.*

68. *Id.*

69. *Ga. Senate Committee Deals Sunday Sales Bill a Setback*, ASSOCIATED PRESS, Mar. 1, 2007, available at <http://www.accessnorthga.com/detail.php?n=94119&c=10> [hereinafter *Ga. Senate Committee*].

70. *Id.*

71. Salzer, *supra* note 8.

72. *Id.*

73. State of Georgia Final Composite Status Sheet, SB 26, June 5, 2007.

initially stalled the bill.⁷⁴ Senator Shafer was likely reluctant to hold hearings on the bill because he felt that the bill should not exclude liquor sales.⁷⁵ The Georgia Alcohol Dealers Association also initially opposed Sunday sales.⁷⁶ However, if the bill gained enough momentum, the organization had planned to lobby for the inclusion of hard-liquor sales.⁷⁷ In other words, the liquor dealers wanted the bill to “be all or nothing.”⁷⁸ The liquor industry got their way: after religious conservatives and the liquor industry defeated the first Sunday sales bill, liquor was added to the legislation.⁷⁹ The powerful lobbying force of the liquor industry then put their support behind the bill and Senator Shafer promised a vote on the bill in committee.⁸⁰

However, Senator Shafer recanted on this commitment when issues surrounding the wording arose, and he sent the bill back to subcommittee to redraft it.⁸¹ The subcommittee, which Shafer appointed, included two members who had already publicly opposed the bill.⁸² After further stalling in the Senate Regulated Industries and Utilities Committee, the bill was finally approved and sent to the Rules Committee, which would have final say as to whether the bill would receive a vote on the floor.⁸³ The Rules Committee failed to schedule the bill for a floor vote and the bill was “declared dead for the year.”⁸⁴

Jim Tudor, a lobbyist for the convenience store industry, remained hopeful, stating, “Most people agree that this legislation eventually will pass.”⁸⁵ If so, one hurdle may still remain: in late January,

74. See *Ga. Senate Committee, supra* note 69. But see *Lawmakers 2007* (GPTV broadcast Feb. 27, 2007). Senator Shafer denied he initially tried to stall the bill and noted, “[w]e hold hearings on every bill that’s introduced. The bill that [Senator Harp] originally introduced, he withdrew because of flaws. We’re taking up the subsequent bills that he introduced in the order in which they were introduced, and that puts them on our calendar tomorrow.” *Id.*

75. See Salzer, *supra* note 2. Senator Shafer stated that the bill’s exclusion of liquor sales was unfair to the liquor industry and did not reflect the desires of his constituents. See *id.*

76. See Salzer, *supra* note 8.

77. *Id.*

78. *Id.*

79. See *Ga. Senate Committee, supra* note 69.

80. See *id.*

81. See *id.*

82. See *id.*

83. See Dave Williams, *Sunday Sales Bill Dies in Committee*, GWINNETT DAILY POST, Mar. 27, 2007.

84. *Id.*

85. *Id.*

Governor Perdue, a Christian conservative who does not drink alcohol and has vetoed alcohol-related bills in the past,⁸⁶ stated, “I think it will take a lot of persuasion to get my vote.”⁸⁷

The Case for Buying a Case on Sunday

Income for Georgia

The powerful lobby of convenience and grocery store owners supported Sunday sales from the outset.⁸⁸ Then, after the bill included liquor sales, the liquor industry backed the bill.⁸⁹ Proponents of the bill, backed by these powerful lobbies, stressed the economic impact that Sunday sales could have.⁹⁰

Bob Moore, Chairman of the Georgia Food Industry and Regional Vice President of Publix, supported SB 137.⁹¹ Moore told the Senate Committee that Sunday is the largest volume day in most of Publix’s stores.⁹² As a result, Moore estimated that the bill would allow Georgia to collect \$1.4 million in revenue from the excise tax and \$3.3 million in revenue from the sales tax.⁹³ Jay Hibbard, Vice President of Government Relations for the Distilled Spirits Council of the United States, also supported SB 137.⁹⁴ Hibbard noted that thirty-four states currently permit sales of distilled spirits on Sundays,

86. See Salzer, *supra* note 24.

87. See *Ga. Senate Committee*, *supra* note 69.

88. See Salzer, *supra* note 8. The Food Industry Association is a big lobbyist as well: it hosted top lawmakers at the group’s annual convention in Amelia Island and in South Carolina, including House Ways and Means Chairman Larry O’Neal (R-146th), according to lobbyist disclosures. *Id.* The groups and big chains like Publix also contribute to political campaigns and the state Republican Party: Governor Perdue received \$5,000 from Publix and \$1,000 from the convenience store association this year, according to campaign finance reports, and Lieutenant Governor Casey Cagle received \$2,500 from Publix, \$500 from the convenience stores, and \$1,000 from the Food Industry Association. *Id.*

89. See *Ga. Senate Committee*, *supra* note 69.

90. See *infra* text accompanying notes 91-107.

91. Senate Notes, *supra* note 28 (remarks by Bob Moore, Chairman of the Georgia Food Industry and Regional Vice President of Publix).

92. *Id.*

93. *Id.* Moore noted that he had prayed on this issue significantly and that his choice would be to close all stores on Sunday, but that the market demands otherwise. *Id.*

94. Senate Notes, *supra* note 28 (remarks by Jay Hibbard, Vice President of Government Relations for the Distilled Spirits Council of the United States); *Lawmakers 2007* (GPTV broadcast Feb. 28, 2007).

and that Georgia would also benefit from Sunday sales.⁹⁵ He estimated that the increase in sales volume would translate to between \$3.4 and \$4.8 million in new state tax revenue from distilled spirit sales.⁹⁶

Senator Harp, the bill's sponsor, told the Senate Committee that he was from the Columbus area, where people travel across the state line to Phenix City, Alabama, in order to purchase alcohol on Sundays.⁹⁷ Harp noted that communities around the perimeter of the state of Georgia compete against bordering states, depending on the laws in these adjacent states.⁹⁸ As a result, Harp estimated that the ban on Sunday sales costs the city of Columbus alone \$25,000 per month in lost tax revenue.⁹⁹

Income for the Retailers

Sunday is one of the largest shopping days for retailers, particularly grocery stores.¹⁰⁰ At Kroger, Sunday is the second-largest shopping day, and 9% to 10% of its customers shop only on Sundays.¹⁰¹ Bob Moore, Chairman of the Georgia Food Industry, noted that Georgia retailers face competition from out-of-state retailers because Georgia is one of only three states, and the only one in the Southeast, that bans alcohol sales on Sunday.¹⁰² In addition, while retailers face intrastate competition from restaurants in general, they are instantly disadvantaged on Sundays when restaurants can sell alcohol and they cannot.¹⁰³ Furthermore, grocers must

95. Senate Notes, *supra* note 28 (remarks by Jay Hibbard, Vice President of Government Relations for the Distilled Spirits Council of the United States); *Lawmakers 2007* (GPTV broadcast Feb. 28, 2007).

96. Senate Notes, *supra* note 28 (remarks by Jay Hibbard, Vice President of Government Relations for the Distilled Spirits Council of the United States); *Lawmakers 2007* (GPTV broadcast Feb. 28, 2007).

97. See Harp Interview, *supra* note 38.

98. *Id.*; see also Senate Notes, *supra* note 28 (remarks by Sen. Seth Harp (R-29th)).

99. Senate Notes, *supra* note 28 (remarks by Sen. Seth Harp (R-29th)); Harp Interview, *supra* note 38.

100. Senate Notes, *supra* note 28 (remarks by Forrest Hamilton, Kroger Vice President of Atlanta Operations).

101. *Id.*

102. *Id.* (remarks by Bob Moore, Chairman of the Georgia Food Industry and Regional Vice President of Publix).

103. *Id.* (remarks by Forrest Hamilton, Kroger Vice President of Atlanta Operations).

compensate for having the same operational costs on Sunday with less revenue due to the ban on alcohol sales.¹⁰⁴

Jay Hibbard, Vice President of Government Relations for the Distilled Spirits Council of the United States, predicted that Sunday sales would increase retailers' revenues between \$29 to \$40 million from spirit sales alone.¹⁰⁵ He noted that Pennsylvania and Oregon saw immediate boosts in revenue after allowing Sunday sales, which he labeled as a "grand slam homerun."¹⁰⁶ The Georgia Chamber of Commerce also supported the bill, stating that it would allow Georgia establishments to compete with other states and also level the playing field within the industry.¹⁰⁷

Consumer Choice

Senator Harp believed that the main issue underlying the bill was voter choice, rather than the authorization of liquor sales.¹⁰⁸ Senator Harp said the bill is "about local option" and analogized it to municipalities allowing restaurants to sell liquor.¹⁰⁹ Joe Fleming of the Georgia Chamber of Commerce also stated that the bill promotes consumer choice and noted the "double safeguard" in the bill that would still require municipalities to approve the referendum.¹¹⁰

Effect on Tourism

Senator Harp also argued that the prohibition on Sunday sales detrimentally affects tourism in Georgia, particularly in Atlanta.¹¹¹ He pointed out that the laws have a large impact on tourists coming

104. *See id.*

105. Senate Notes, *supra* note 28 (remarks by Jay Hibbard, Vice President of Government Relations for the Distilled Spirits Council of the United States.); *Lawmakers 2007* (GPTV broadcast Feb. 28, 2007).

106. Senate Notes, *supra* note 28 (remarks by Jay Hibbard, Vice President of Government Relations for the Distilled Spirits Council of the United States).

107. *See id.* (remarks by Joe Fleming, Vice President of Government Affairs, Georgia Chamber of Commerce).

108. Eckenrode, *supra* note 14.

109. *See* Senate Notes, *supra* note 28 (remarks by Sen. Harp (R-29th)).

110. *See id.* (remarks by Joe Fleming, Vice President of Government Affairs, Georgia Chamber of Commerce).

111. Harp Interview, *supra* note 38.

from around the country.¹¹² He noted that these tourists often want to buy alcohol and have parties in their hotel rooms and that the Sunday ban on sales can prohibit them from doing so due.¹¹³ Senator Harp also said that this problem is exacerbated by the increasing difficulty of carrying alcohol onto aircraft.¹¹⁴ As a result, people, such as conventioners, who arrive in Georgia on a Saturday night, cannot purchase any alcohol until Monday.¹¹⁵

Moving Georgia into the 21st Century

The reputation of Georgia and how the state is perceived in other states was another primary concern for Senator Harp.¹¹⁶ He asserted that Blue laws were a function of the 19th Century, when prohibition was in effect, and that it was now time to move Georgia forward and place it in line with the other states.¹¹⁷ Accordingly, Senator Harp was concerned that these laws portray Georgia as a “backwards place.”¹¹⁸ He said, “I do not believe this bill in any way defames or demeans the Sabbath. It simply brings Georgia in line with the 21st century.”¹¹⁹

Opposition and Support

Religious conservatives vigorously attacked the bill as the “absolute final assault on the sanctity of the Sabbath.”¹²⁰ Reverence for the sanctity of the Christian Sabbath was the force behind much of the opposition.¹²¹ Opponents did not see the need for the bill, as “people have plenty of time to get their drinking in before Sunday.”¹²²

112. *Id.*

113. *Id.*

114. *Id.*

115. *Id.*

116. *Id.*

117. See Senate Notes, *supra* note 28 (remarks by Sen. Harp (R-29th)); Harp Interview, *supra* note 38.

118. Harp Interview, *supra* note 38.

119. See Ga. Senate Committee, *supra* note 69.

120. *Id.*

121. See Eckenrode, *supra* note 14; Salzer, *supra* note 8.

122. Salzer, *supra* note 8.

However, supporters pointed out that “Georgia is already not pure on sacred Sunday” as the sale of alcohol on Sundays is already permitted.¹²³ As some Sunday sales supporters note, “[a] person can tank up at a restaurant and do the same damage.”¹²⁴ Supporters also noted that establishments that sell lottery tickets, which some people see as gambling, must sell them on Sunday, or they will lose their license.¹²⁵

Opponents based their substantive argument against Sunday sales on safety concerns, claiming those who vote in favor of Sunday sales will have “blood on their hands.”¹²⁶ Specifically, opponents asserted that the bill would result in more DUIs and underage drinking and noted that “almost half of all traffic fatalities are in some way alcohol related.”¹²⁷ Opponents provided data that showed that when New Mexico enacted Sunday sales, alcohol-related traffic fatalities increased.¹²⁸

However, Senator Harp called this data “bogus.”¹²⁹ He and supporters provided a Department of Transportation study that showed that after New Mexico opened up Sunday to alcohol sales, traffic and DUI related fatalities decreased, despite the fact that the state increased the maximum speed limit during this time, therefore showing that “the DOT data shows no difference in states that allow Sunday sales.”¹³⁰

Why the Initiatives Failed in 2007

Senator Harp blamed the failure of the Sunday sales bills on timing. He rewrote the proposed Sunday sales bill several times to

123. See Senate Notes, *supra* note 28 (remarks by Greg Woolard, Vice President of Clyde’s Market in Glennville, Georgia, on behalf of the Georgia Association of Convenience Stores).

124. See Senate Notes, *supra* note 28 (remarks by Sen. Seth Harp (R-29th)).

125. *Id.* (remarks by Greg Woolard, Vice President of Clyde’s Market in Glennville, Georgia, on behalf of the Georgia Association of Convenient Stores).

126. *Id.* (remarks by Aaron McCullough, Troop Baptist Association).

127. *Lawmakers 2007* (GPTV broadcast, Feb. 28, 2007) (remarks by Rev. Mike Griffin, Liberty Baptist Church, Hartwell, Georgia).

128. *Id.*

129. Harp Interview, *supra* note 38; see also Senate Notes, *supra* note 28 (remarks by Sen. Seth Harp (R-29th)).

130. See Senate Notes, *supra* note 28 (remarks by Sen. Seth Harp (R-29th)); see also Senate Notes, *supra* note 28 (remarks by Jay Hibbard, Vice President of Government Relations, Distilled Spirits Council of the United States).

address concerns of committee members.¹³¹ Ultimately though, the revisions took too much time, and the issue was pushed to the end of a very busy and contentious legislative session. Senator Harp lamented, “It’s just the dilemma of the bill having sat in committee too long.”¹³²

Additionally, Senate leadership, including Lieutenant Governor Casey Cagle, was not in favor of scheduling the bill for floor debate.¹³³ Further damaging the bill, Governor Sonny Perdue publicly denounced the bill, and at that point, Senator Harp concedes, “the damage had been done.”¹³⁴

What’s Next for Sunday Sales

Despite the Sunday sales issue’s struggles, supporters are still optimistic. “This issue is certainly going to continue” in future legislative sessions, said Jim Tudor, president of the Georgia Association of Convenience Stores. “What everyone has said from the beginning is this piece of legislation still enjoys a tremendous amount of support statewide.”¹³⁵

Senator Harp still feels strongly about the issue. “Politics is a game of numbers. We’ll call for this bill to move if we have the number. I think we are getting the numbers, and I think we were close [this year but] we were late in the session We’ll be back next January.”¹³⁶

Conclusion

The alcohol bills introduced in the 2007 legislative session pitted economics against religion.¹³⁷ Religious conservatives opposed all of these bills, arguing that it would demean the Sabbath.¹³⁸ These groups also advanced a secular reason for their opposition: to protect the safety of Georgians by preventing an increase in drunk driving

131. See Eckenrode, *supra* note 14.

132. See Williams, *supra* note 83.

133. See Eckenrode, *supra* note 30.

134. Harp Interview, *supra* note 38.

135. See Eckenrode, *supra* note 30.

136. Harp Interview, *supra* note 38.

137. See *supra* text accompanying notes 91-107, 120-25.

138. See *supra* text accompanying notes 120-25.

and underage drinking.¹³⁹ Nonetheless, policymakers vow to continue their push to bring Georgia into the 21st century.¹⁴⁰

In continuing their effort, policymakers may have a tool that could weaken the religious right's secular hook.¹⁴¹ Georgia's trauma centers are grossly under-funded.¹⁴² In fact, one legislator who was vocally opposed to Sunday sales and voted against it in subcommittee, specifically asked whether business owners would contribute to the state's trauma network.¹⁴³ Accordingly, the Sunday sales bill could be amended to earmark the tax funds that it will generate to trauma centers.¹⁴⁴ Senator Seth Harp (R-29th) specifically said that "[he] would not be opposed to the idea."¹⁴⁵ As a result, Georgia's under-funded trauma centers could see some relief, and the bill could ameliorate the concerns that it will harm the safety of Georgians.¹⁴⁶

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139. *Id.*

140. *See* Harp Interview, *supra* note 38.

141. *See infra* notes 107-112 and accompanying text.

142. Jeremy Redmon, *Legislature 2007: Trauma Care Bill Approved in the House*, ATLANTA J.-CONST., Apr. 20, 2007, available at 2007 WLNR 7457592.

143. Senate Notes, *supra* note 28 (remarks by Sen. Don Thomas (R-54th)); *see Ga. Senate Committee*, *supra* note 69.

144. *See* Harp Interview, *supra* note 38.

145. *Id.*

146. Redmon, *supra* note 142; *see supra* text accompanying notes 126-28, 142-45.