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ALCOHOLIC BEVERAGES

*Regulation of Alcoholic Beverages Generally: Provide
Exemption for Transportation of Alcoholic Beverages for
Personal or Household Use*

CODE SECTIONS: O.C.G.A. §§ 3-3-8 (amended), 3-6-30 to
-32 (new)

BILL NUMBER: HB 1273

ACT NUMBER: 851

GEORGIA LAWS: 2000 Ga. Laws 1401

SUMMARY: The Act permits individuals to transport limited quantities of alcoholic beverages purchased outside of Georgia that are for personal or household use and for which the state excise tax has been paid. The Act requires that individuals transporting alcoholic beverages in excess of the amount exempted from payment of excise taxes must have proof of payment of the excise taxes. The Act provides for special order shipping licenses that exempt holders from general licensing requirements when transporting limited quantities of wine directly to consumers for personal or household use. The Act also permits wineries to ship limited quantities of wine directly to consumers under certain conditions without requiring the winery to be licensed or to comply with general licensing requirements.

EFFECTIVE DATE: July 1, 2000

History

The Felony Shipping Act of 1997,¹ which provided felony penalties for unauthorized shipment of alcoholic beverages into Georgia, had the unintended, or at least unpopular, consequence of preventing transport or shipment of wine from wineries not licensed or represented by a licensed distributor in Georgia.² In particular, consumers could not purchase wine while visiting an out-of-state winery and bring it home with them to Georgia.³ Complaints came from both the wineries and consumers, in particular, consumers in affluent suburbs.⁴ Attempts were made to repeal the Felony Shipping Act or to allow unregulated direct shipments from wineries.⁵ Opponents objected to these attempts because the result would be consumers bypassing wholesalers and retailers and avoiding alcoholic beverages taxes.⁶ HB 1273, as introduced, was designed to allow consumers access to wine from wineries while maintaining regulatory control over such access.⁷ Thus, HB 1273 represented a compromise between access and regulation.⁸ HB 1273 was supported by both parties, Georgia wine retailers and wholesalers, consumers, and the Georgia Department of Revenue.⁹

1. See 1997 Ga. Laws 399, § 1, at 399 (codified at O.C.G.A. § 3-3-32 (Supp. 2000)).

2. See Audio Recording of House Proceedings, Feb. 8, 2000 (remarks by Rep. Stephanie Stuckey) <<http://www.ganet.org/services/leg/audio/2000archive.html>> [hereinafter House Audio]; Telephone Interview with Fred Kitchens, Executive Director, Wine and Spirits Wholesalers of Georgia (May 18, 2000) [hereinafter Kitchens Interview].

3. See House Audio, *supra* note 2; see also Telephone Interview with Rep. Kathy Ashe, House District No. 46 (July 11, 2000) [hereinafter Ashe Interview].

4. See Kitchens Interview, *supra* note 2. Representative Stephanie Stuckey, who read letters from constituents protesting the Felony Shipping Act and supporting the "wine bill" (that is, HB 1273) during debate in the House, represents part of DeKalb County. See House Audio, *supra* note 2.

5. See Kitchens Interview, *supra* note 2.

6. See *id.* Taxes on alcoholic beverages are a significant source of revenue for Georgia. See *id.*

7. See *id.*

8. See *id.*; House Audio, *supra* note 2 (remarks by Rep. Kathy Ashe); see also Ashe Interview, *supra* note 3.

9. See Audio Recording of Senate Proceedings, Feb. 29, 2000 (remarks by Sen. Ed Harbison) <<http://www.ganet.org/services/leg/audio/2000archive.html>>; Kitchens Interview, *supra* note 2.

HB 1273

Upon introduction, the House assigned the bill to its Regulated Beverages Committee, which favorably reported the bill on February 3, 2000.¹⁰ The House passed the bill, as introduced, on February 8, 2000.¹¹ The Senate Veterans and Consumer Affairs Committee favorably reported the bill on February 23, 2000, and the Senate passed the bill on February 29, 2000, without changes.¹² Governor Barnes signed HB 1273 into law on May 1, 2000.¹³

The Act

The Act amends Code section 3-3-8, regarding possession and transportation of alcoholic beverages, by providing an exception allowing individuals to possess and transport wine purchased and shipped through a shipper with a special order shipping license.¹⁴ The Act also provides an exception allowing individuals to possess and transport limited quantities of alcoholic beverages for personal or household use as long as they pay the excise tax.¹⁵ The Act requires individuals in possession of alcoholic beverages in excess of allowed limits to have proof that the excise tax had been paid on the excess.¹⁶

The Act adds Code sections 3-6-30 to -32, which provide that a shipper can ship limited quantities of wine to consumers once the shipper obtains a special order shipping license.¹⁷ The Act adds Code section 3-6-30 to reaffirm the General Assembly's findings and declarations regarding direct shipments of alcoholic beverages appearing in Code section 3-3-31.¹⁸ The Act

10. *See* HB 1273, as introduced, 2000 Ga. Gen. Assem.; State of Georgia Final Composite Status Sheet, March 22, 2000.

11. *See* Georgia House of Representatives Voting Record, HB 1273 (Feb. 8, 2000); State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

12. *See* Georgia Senate Voting Record, HB 1273 (Feb. 29, 2000); State of Georgia Final Composite Status Sheet, Mar. 22 2000.

13. *See* 2000 Ga. Laws 1401, § 3, at 1405.

14. *Compare* 1984 Ga. Laws 790, § 1, at 791 (formerly found at O.C.G.A. § 3-3-8(a)(1)(C) (1990)), *with* O.C.G.A. § 3-3-8(a)(1)(C) (Supp. 2000).

15. *Compare* 1984 Ga. Laws 790, § 1, at 791 (formerly found at O.C.G.A. § 3-3-8(a)(2) (1990)), *with* O.C.G.A. § 3-3-8(a)(2) (Supp. 2000).

16. *Compare* 1984 Ga. Laws 790, § 1, at 791 (formerly found at O.C.G.A. § 3-3-8(a)(2) (1990)), *with* O.C.G.A. § 3-3-8(a)(3) (Supp. 2000).

17. *See* O.C.G.A. §§ 3-6-30 to -32 (Supp. 2000).

18. *See* O.C.G.A. § 3-6-30 (Supp. 2000); *see also* 1997 Ga. Laws 399, § 1, at 399 (codified

adds Code section 3-6-31, which establishes special order shipping licenses and provides the limitations and conditions for their use.¹⁹ The Act authorizes a shipper to make direct shipments of limited quantities of wine to consumers if the shipper obtains a special order shipping license.²⁰ The Act also provides penalties for failure to comply with the requirements for special order shipping licenses²¹ and provides for the collection of excise taxes by holders of special order shipping licenses.²²

The Act adds Code section 3-6-32, which establishes that a winery holding a federal basic wine manufacturing permit can ship limited quantities of wine directly to consumers if the wine was purchased in person at the winery.²³

The Act ameliorates some of the harsh effects of the 1997 Felony Shipping Act that provides felony penalties for shipment of alcoholic beverages into Georgia when the shipper does not hold a valid manufacturer's, importer's, broker's, or wholesaler's license issued by the State of Georgia.²⁴ First, the Act decriminalizes transport by consumers and shipment from wineries of limited amounts of wine for personal consumption.²⁵ Under these provisions, neither the consumer nor the winery needs a special order shipping license.²⁶ Second, the Act provides a simplified registration procedure for shippers to ship limited quantities of wine directly to consumers in Georgia.²⁷

at O.C.G.A. § 3-3-31 (Supp. 2000)) (setting out legislative findings that direct shipment of alcoholic beverages by businesses outside Georgia poses a threat to public health, safety, revenue, and the Georgia economy, thus justifying regulation of shipment of alcoholic beverages).

19. See O.C.G.A. § 3-6-31 (Supp. 2000). This provision was modeled after similar provisions in New Hampshire and Nevada, with the Georgia version having less complex licensing procedures. See Kitchens Interview, *supra* note 2.

20. See O.C.G.A. § 3-6-31(c) (Supp. 2000).

21. See *id.* § 3-6-31(d). This Code section specifically requires compliance with Code section 3-3-23, which prohibits sales to people under 21 years of age. See *id.* Sale of alcohol to minors was discussed during debate in the House and was cited as a major concern by proponents of the Act. See House Audio, *supra* note 2 (remarks by Rep. Kathy Ashe); Kitchens Interview, *supra* note 2.

22. See O.C.G.A. § 3-6-31(e) (Supp. 2000).

23. See *id.* § 3-6-32.

24. See 1997 Ga. Laws 399, § 1, at 399 (codified at O.C.G.A. § 3-3-32 (Supp. 2000)).

25. See O.C.G.A. §§ 3-3-8(a)(2), 3-6-32 (Supp. 2000).

26. See *id.* §§ 3-3-8(a)(2), 3-6-32.

27. See *id.* § 3-6-31(a)-(c); House Audio, *supra* note 2 (remarks by Reps. Kathy Ashe and Stephanie Stuckey); Kitchens Interview, *supra* note 2.

2000]

LEGISLATIVE REVIEW

11

This provision of the Act provides Georgia consumers access to wine from wineries not served by wine distributors licensed in Georgia.²⁸

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28. *See* Kitchens Interview, *supra* note 2.