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Distilling the Basics of Municipal Alcoholic Beverage Regulation



Table of Contents

I.	Introduction	3
II.	Terminology.....	4
A.	Alcoholic beverages.....	4
B.	Types of sales	5
III.	Initial Procedures	7
A.	Malt Beverages and Wine	7
B.	Distilled Spirits	7
1.	Authorization of Sales by the Drink and Package Sales Without a Referendum....	8
2.	Authorization of Package Sales with a Referendum	9
3.	Authorization of Sales by the Drink	10
IV.	Licensing	12
V.	Distance Requirements.....	14
VI.	Sunday Sales	16
A.	Authorization of Sunday Package Sales.....	16
B.	Authorization of Sunday Sales by the Drink.....	17
C.	Expansion of Sunday Sales Hours.....	18
D.	The Sunday Sales Elections Conundrum.....	20
VII.	Taxation	23
VIII.	Home Delivery of Alcohol	25
IX.	Tasting Events and Samples	27
X.	General Prohibitions.....	28
XI.	Special Licenses	30
A.	Private Clubs	30
B.	Caterers	30
C.	Nonprofit Museums	30
D.	Brewpubs	31
G.	Farm Wineries	32
F.	Bars and Restaurants.....	33
G.	Breweries and Distilleries	33

H.	Regional Economic Assistance Projects (REAPs)	35
I.	Public Golf Courses	36
XII.	Significant Case Law	37
XIII.	Additional Resources	40

I. Introduction

Local governments have broad powers, conferred by state law, to regulate the manufacturing, distribution, and selling by wholesale or retail of alcoholic beverages.¹ In fact, except as may be specifically excepted by the Georgia General Assembly, no such activity may be conducted inside the state without obtaining a license from the applicable local governing authority.² Cities have discretionary power within statutory and constitutional constraints to grant, refuse, suspend, or revoke licenses pursuant to an ordinance that sets forth ascertainable standards.³ The purpose of this publication is to familiarize city officials with some of the important basics in the area of alcoholic beverage regulation. Because of the complexities of regulating in this area it is not advisable to adopt an alcoholic beverage ordinance without consultation with legal counsel. Hopefully, review of this material will provide guidance for city officials working with the city attorney to craft a regulatory system tailored to their community's specific needs.

Like many states, Georgia largely operates under a three-tier system of alcohol distribution. The three-tier system is important to understanding licensing in Georgia because, with a few exceptions, it limits manufacturers, distributors, and retailers in the manner in which they can sell alcohol. In a three-tier system the manufacturers obtain requisite permits and licenses but are only allowed to sell their products to properly licensed and permitted distributors who, in turn, are only allowed to sell to properly licensed and permitted retailers. Consumers are typically only allowed to purchase alcoholic beverages, whether by the package or for consumption on the premises, from retailers. There are a few exceptions to the three-tier system in Georgia and those will be detailed in this publication.

¹ See O.C.G.A. § 3-3-2 which gives cities and counties broad powers over the permitting or licensing of the manufacturing, distributing, and selling by wholesale or retail of alcoholic beverages.

² Id.

³ Id.

II. Terminology

A. Alcoholic beverages

The Georgia Code categorizes alcoholic beverages into three main groups: malt beverages, wine, and distilled spirits. “Malt beverages” are defined as an alcoholic beverage containing not more than 14 percent alcohol by volume derived from the brewing of barely, malt, or hops and generally includes ale, porter, brown, stout, lager beer, small beer, and strong beer.⁴ Wine is defined as any alcoholic beverage containing not more than 24 percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added.⁵ Wine includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products.⁶ Distilled spirits” are any alcoholic beverage with an alcohol volume greater than 24 percent.⁷

Furthermore, there are some other classifications of alcohol that are more specialized alcoholic beverages and may have separate and distinct laws and rules associated with them. “Table wine” is defined as an alcoholic beverage derived from the fermentation of fruit that is less than 14 percent alcohol by volume.⁸ “Fortified wine” is defined as table wine with brandy added not more than 24 percent alcohol by volume.⁹ “Hard cider contains not more than 6% alcohol by volume.¹⁰ These definitions are important because the Code establishes different legal procedures for permitting the sale or distribution of these types of beverages.

The following list describes legally defining characteristics of different alcoholic beverages:

Distilled Spirits	Obtained by distilling fermented liquids.	All alcoholic beverages with more than 24% alcohol by volume.
Wine	Obtained by fermenting fruits, berries, grapes either by natural fermentation or by natural fermentation with brandy added.	Not more than 24% alcohol by volume.

⁴ O.C.G.A. § 3-1-2(13).

⁵ O.C.G.A. § 3-1-2(24).

⁶ Id.

⁷ O.C.G.A. § 3-1-2(8).

⁸ O.C.G.A. § 3-6-1(4).

⁹ O.C.G.A. § 3-1-2(9).

¹⁰ O.C.G.A. § 3-1-2(10.1).

Malt Beverages	Obtained by fermenting barley, malt, hops, or similar product.	Not more than 14% alcohol by volume.
Table Wine	Obtained by fermenting fruits, berries, grapes either by natural fermentation or by natural fermentation with brandy added.	Not more than 14% alcohol by volume.
Fortified Wine	Obtained by adding brandy to table wine.	Not more than 24% alcohol by volume.
Hard Cider	Obtained by fermenting fruit, typically apples.	Not more than 6% alcohol by volume.

B. Types of sales

It is also important to make a distinction between the two main types of alcohol sales that take place. Sales at restaurants or bars where alcohol is “poured” and consumed on the premises are referred to as “sales by the drink,” and sales of alcohol at retail locations where the customer purchases unopened containers are referred to as “package sales.” Georgia law also provides for different applicable laws in regard to sales of beer and wine and sales of distilled spirits. This distinction is important in determining the proper legal procedure for authorizing such sales.

As of 2017, where permitted by local ordinance, there is also an intermediate category of alcohol sale which includes Brewpubs¹¹, breweries¹² and distilleries¹³, which can now sell a set amount of both unopened alcoholic beverages or “package” sales and “poured” drinks of the products they produce. Breweries may now sell 3,000 barrels of their beer per year directly to customers and distilleries may directly sell 500 barrels of spirits per year. For off-site consumption, patrons may purchase up to a case of beer and three 750 ml bottles of liquor at a time from brewers and distillers, respectively. It is important to note that brewpubs, breweries and distilleries have the ability to sell a limited quantity of their alcoholic beverage product by package and/or pour if allowed by local law only. Brewpubs¹⁴, breweries¹⁵, and distilleries¹⁶, thus, have limited exceptions to the three-tier

¹¹ O.C.G.A. § 3-5-36.

¹² O.C.G.A. § 3-5-24.1

¹³ O.C.G.A. § 3-4-24.2

¹⁷ See O.C.G.A § 3-3-1.

¹⁷ See O.C.G.A § 3-3-1.

¹⁷ See O.C.G.A § 3-3-1.

system in Georgia as they are allowed to manufacture alcoholic beverages, distribute their product, and sell their product at retail.

III. Initial Procedures

A. Malt Beverages and Wine

The business of manufacturing, distributing, selling, handling, and otherwise dealing in or possessing alcoholic beverages is a privilege and not a right in Georgia.¹⁷ It is not mandated that a city, therefore, allow for the manufacture, sale, or distribution of any alcoholic beverages inside the city limits. Many communities, however, may wish to allow the sale of beer and wine through either package sales or by the drink, or both. In order to authorize and regulate such sales, the municipality need only pass an alcoholic beverage regulation ordinance. Specifically, Georgia law does not allow for the manufacturing, distribution, or retail sale of beer or wine in a city without a permit or license from that city.¹⁸

A question is often asked as to whether local governments may conduct referenda on whether or not to permit the sales of beer and wine either in package sales or sales by the drink generally. With the exception of certain Sunday sales referenda, discussed in Section VI below, a local government may not hold a referendum to determine whether to allow package sales or sales by the drink of beer and wine at all. This is because the Georgia Code only contemplates holding referenda to determine whether to allow package sales or sales by the drink of distilled spirits.¹⁹ Because there are multiple instances of statutory law requiring or authorizing referenda on various alcohol related issues, the lack of any statutory authorization or requirement that there be a referendum for a city to specifically allow for the sales of beer and wine generally means that such referenda are prohibited. This principle of statutory interpretation is known in Georgia courts as *expressio unius est exclusion alterius* (the expression of one thing is the exclusion of another). In addition to this principle of statutory interpretation is also the non-delegation doctrine. The doctrine essentially prohibits city governing authorities from delegating to the voters a duty that has been assigned to them, in this instance determining whether sales of beer and wine should be permitted.²⁰

B. Distilled Spirits

As with beer and wine, the sales of distilled spirits may take place within the city limits either by package sales or by the drink are at the option of the municipality. Unlike with beer and wine, in some instances voters in the municipality may have to approve sales of distilled spirits in a referendum. The laws surrounding sales of distilled spirits are more

¹⁷ See O.C.G.A. § 3-3-1.

¹⁸ O.C.G.A. §§ 3-3-2(a); 3-5-40(a); 3-6-40(a).

¹⁹ O.C.G.A. § 3-4-40

²⁰ See Opinion of the Attorney General 93-5.

complicated and nuanced than the laws surrounding beer and wine. In response, this section of the publication attempts to address the various situations that may arise and how they might be addressed.

1. Authorization of Sales by the Drink and Package Sales Without a Referendum

Cities have the power to determine whether the sale of distilled spirits may take place within the city limits independent of whether the county in which the city is located has authorized such sales but the laws for such authorizations is a bit more complicated than the laws surrounding malt beverages and wine. When a county allows for sales of distilled spirits by the drink, by the package, or both, cities within that county may choose to “withdraw” from such county policy by prohibiting either sales by the drink or package sales or both by municipal ordinance even if city voters favored approval of such sales within the municipality in a county-wide referendum. Cities that wish to prohibit such sales need not take any action to withdraw since the passage of a resolution or ordinance is necessary to permit sales under this statute. Therefore, much like with beer and wine, sales of distilled spirits will not be allowed without an appropriate resolution or ordinance enacted by the municipality to permit such sales.

Where a county has authorized the sale of distilled spirits by the drink in a referendum, cities located within that county may authorize the sale of distilled spirits by the drink by the mere passage of an ordinance if a majority of the municipality’s residents that voted in the county referendum voted in favor of authorizing distilled spirits by the drink.²¹ Likewise, a city may authorize package sales of distilled spirits by the mere passage of an ordinance if a majority of the municipality’s residents that voted in the county referendum voted in favor of authorizing package sales.²² This mechanism may be useful for cities that are located wholly within counties that have recently approved sales of distilled spirits and the governing authority feels confident about the desires of the residents of the city. Some cities however are located within more than one county and it is unclear how such cities could employ the applicable statute.

²¹ This may be difficult to prove, in practice, as such county-wide referenda may have been held in the distant past and records may not clearly delineate votes which were cast by municipal residents and those votes which were cast in the unincorporated area of the county. Therefore, using historical referenda to prove such a vote may be a legally challenging task, particularly if the municipality has experienced any annexations since the original referendum.

²² See O.C.G.A. §3-4-160; How one determines whether residents of the city voted in favor of approval in a county referendum is not at all clear. It may in fact be impossible if precinct lines in the county election did not track city limit lines. Based on the timing of its enactment, Code section 3-4-160 appears to have been passed in response to *Price v. City of Snellville*, 253 Ga. 166 (1984) and an opinion of the Attorney General, AG Op. U-85-48 (1985), which both suggested that cities must hold their own referenda in order to authorize sales of distilled spirits. At the time of publication, there was no case law addressing the validity of this statute.

The statute is also silent as to how many years may pass between a county referendum and an ordinance passed by a municipality authorizing sales. A city council may be hesitant to base its actions on the votes of residents in a long ago held referendum, which determined the validity of sales not in the city, but in the unincorporated area of the county. Finally, of course, the statute is of no use to municipalities that may want to authorize sales of distilled spirits but are located in counties that do not allow such sales. Thus, separate provisions in state law authorize municipal referenda on the questions of sales by the drink and package sales.²³ Whether or not a city chooses to take advantage of the withdrawal procedure in counties which have already approved sales of distilled spirits, the city may choose to call for a referendum on the sale of distilled spirits either by the drink or by the package following the procedures in the Georgia law.²⁴

2. Authorization of Package Sales with a Referendum

In most instances, package sales of distilled spirits within a municipality must be approved by referendum.²⁵ A petition must initiate the referendum authorizing such sales. Petitions must be in writing and contain the signatures of at least 35 percent of the registered and qualified voters based on the number of voters qualified to vote at the last general election immediately preceding the presentation of the petition.²⁶ Such petitions are to be delivered to the election superintendent of the municipality for verification.²⁷ The law is silent as to the form of the petition, but it would presumably need to be in a format where it is clear that signatories knew what the petition was for and clear as to who the signatories were so that the election superintendent can verify valid signatures. Once the election superintendent has verified that the petition contains the required number of valid signatures, the superintendent sets the date of the referendum. Elections pursuant to this section should comport with the provisions governing special elections that require the election be held on one of several statutorily specified dates.²⁸ The city must bear the costs of the election, canvass the returns, and certify the results of the election to the Secretary of State.²⁹ The following language of the referendum is established by state law:

²³ O.C.G.A. § 3-4-40 et seq.

²⁴ Id.

²⁵ Municipalities which are wholly or partially within counties which have approved of package sales in a referendum and which were issuing licenses for package sales before January 1, 1985 are authorized to continue issuing licenses for package sales pursuant to O.C.G.A § 3-4-51.

²⁶ O.C.G.A. §3-4-41.

²⁷ Id.

²⁸ See O.C.G.A § 21-2-540; Although there appears to be some conflict between the language of the alcoholic beverages code and the elections code, the elections code provisions were enacted after the alcoholic beverage code and indicate that they apply to ballot questions.

²⁹ Due to the holding in Shelby County, Alabama v. Holder, 133 S.Ct. 2612 (2013), special elections, such as any referendum relating to alcohol sales, no longer require preclearance with the Department of Justice

- ☐ YES Shall the issuance of licenses for the package sale
☐ NO of distilled spirits be approved?

If a majority of those casting ballots vote in favor of issuing licenses, package sales become lawful within 15 days after the certification of the results by the election superintendent.³⁰ The municipality, however, still retains the ability and power to adopt resolutions and ordinances as may fall within the police powers to regulate any business engaged or wishing to engage in package sales.³¹ If a majority of those casting ballots vote against the issuance of licenses, then package sales are prohibited in the city. In the event that the majority of the votes are against the issuance of licenses, referendum petitioners must wait two years before the question can be put before the voters again.³²

3. Authorization of Sales by the Drink

A petition is not required in order to initiate a referendum to determine whether sales by the drink of distilled spirits may be allowed within a municipality. The city governing authority needs only to pass a resolution calling for a referendum election.³³ Elections pursuant to this section should comport with the provisions governing special elections that require that the election be held on one of the several statutorily specified dates.³⁴ Sales by the drink may be authorized by a referendum independently of whether the city permits package sales. The language of the referendum question fixed by state law is the same for referenda for sales by the drink in cities that allow package sales and those that do not.³⁵ The question, which must appear on the ballot to authorize sales by the drink is as follows:

- ☐ YES Shall the governing authority of _____
be authorized to issue licenses to sell
☐ NO distilled spirits for beverage purposes by
the drink, such sales to be for the consumption
only on the premises?

under Section 5 of the Voting Rights Act. The Shelby decision declared the Section 4 formula used to determine which jurisdictions must comply with the Section 5 preclearance requirements unconstitutional. As a result, Section 5 has been rendered inoperable until such time as Congress adopts a new, constitutional formula.

³⁰ O.C.G.A. § 3-4-45.

³¹ O.C.G.A. § 3-4-47.

³² See O.C.G.A § 3-4-41(d).

³³ Municipalities which are wholly or partially within counties which have approved the sale of distilled spirits by the drink for consumption only on the premises in a referendum and which were issuing licenses for distilled spirits by the drink for consumption only on the premises before January 1, 1985 are authorized to continue issuing licenses for distilled spirits by the drink for consumption only on the premises pursuant to O.C.G.A. § 3-4-93.

³⁴ See O.C.G.A. § 21-2-540.

³⁵ See O.C.G.A. §§ 3-4-91; 3-4-92.

Citizen petitions may also initiate referenda on the authorization of sales by the drink when the governing authority of the city does not adopt a resolution directing the election superintendent to issue a call for the referendum, although there are some differences in the requirements for petitions depending on whether package sales are permitted in the city or not. Citizen petitions in cities where package sales are already permitted must contain signatures of 15 percent of the registered and qualified voters of the city.³⁶ Citizen petitions in cities where package sales are not already permitted must contain signatures of 35 percent of the registered and qualified voters of the city.³⁷ Citizen petitions also may be used to initiate referenda to nullify the result of a previous referendum authorizing sales of distilled spirits by the drink.³⁸ The table below compares the procedural differences between referenda for sales by the drink between jurisdictions that permit package sales and those that do not.

Referenda in Cities with Package Sales

In the event a majority votes no in the referendum, the city council must wait 1 year to initiate another referendum.

Citizens petitions to initiate referenda on the question of authorization of sales by the drink or to initiate a referendum vote to approve sales by the drink must contain signatures of at least 15 percent of the registered and qualified voters.

Referenda in Cities without Package Sales

In the event a majority votes no in the referendum, the city council must wait 2 years to initiate another referendum.

Citizens petitions to initiate referenda on the question of authorization of sales by the drink or to initiate a referendum on nullification of a previous referendum vote to approve sales by the drink must contain signature of at least 35 percent of the registered and qualified voters.

³⁶ O.C.G.A. § 3-4-91(b)(2)(A).

³⁷ O.C.G.A. § 3-4-92(b)(2)(A).

³⁸ See O.C.G.A. §§ 3-4-91(c); 3-4-92(c).

IV. Licensing

Whether alcohol sales are by the drink or by the package and regardless of the kind of alcohol being sold, the manufacture, distribution, and selling of alcohol by retail and wholesale may not be conducted without a license from the applicable local government.³⁹ Local licenses are issued by the municipality in accordance with the provisions of their ordinance and are in addition to state regulations that may require separate state licenses. Local licenses must be displayed prominently at all times on the premises for which the license was issued.⁴⁰

State law imposes several procedural requirements on cities making decisions on alcohol license applications. As mentioned earlier in this publication, local ordinances must set forth ascertainable standards upon which all decisions shall be based. Any decision regarding a license made by a local government must be made in writing and delivered to the applicant. Denials, revocations or suspensions of licenses must be made in writing and state the reason for the decision.⁴¹ Ordinances must provide the opportunity for a hearing at which an aggrieved applicant must be afforded the opportunity to present evidence and to cross-examine opposing witnesses.⁴² No ordinance may require residency of the applicant as a condition of approval if the applicant designates a resident of the local government that shall be responsible for any matter relating to the license. Finally, before any initial permit may be issued, the applicant must furnish a complete set of fingerprints to be forwarded to the GBI for a background check into criminal activity of any applicant within the last two years.⁴³ The GBI shall obtain background check from FBI which requires all authorized non-criminal justice governmental agencies must have a FBI assigned Originating Agency Identifier (ORI) to submit requests for FBI fingerprint-based background checks.⁴⁴

State law imposes certain limits on the amounts of alcohol license fees.⁴⁵ The maximum fee for each local license. For instance, each license for the package sale, sale by the drink, distribution or manufacture of distilled spirits could be up to \$5,000 annually.⁴⁶ In regard to license fees for the package sale, sale by the drink, distribution or manufacture

³⁹ See O.C.G.A. §§ 3-3-2, 3-3-3, 3-5-40, 3-6-40; It should be noted that local governments have discretion as to whether they require separate licenses for consumption on the premises and for package sales even though state laws governing such types of sales may and do differ.

⁴⁰ See O.C.G.A. § 3-3-3(b).

⁴¹ O.C.G.A. § 3-3-2.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ O.C.G.A. §§ 3-3-1; 3-3-2.

⁴⁵ Alcohol license fees are regulatory fees that are specifically authorized by statutes in Title 3 of the Georgia Code, even though general rules regarding municipal regulatory fees are located in Title 48. In order to ensure compliance with both sets of statutes, it is probably best to merely charge a license fee without including an administrative fee.

⁴⁶ O.C.G.A. § 3-4-48.

of beer the annual license fee is fixed by the local government.⁴⁷ State law also requires local licensing to sell wine within the jurisdiction of a city.⁴⁸ Additionally, although a fee may be charged for licenses, wholesalers (not retailers or manufacturers) of malt beverages that are licensed to do business in more than one city or county may only be charged \$100 for a license by jurisdictions other than the wholesaler's principal place of business.⁴⁹

The grant, denial, suspension or revocation of licenses must be done not only in accordance with local ordinances but also with respect to state and federal law. State law provides that in the event that a local license is revoked, a licensee's state license automatically becomes invalid. Likewise, if a state license is revoked, local licenses become invalid and should not be honored.⁵⁰ In addition to complying with statutory requirements, local ordinances must also comport with state and federal Constitutional requirements. Application requirements for licenses must bear a rational relationship to a legitimate governmental interest. For instance, license requirements may not limit the granting of licenses to United States citizens since legal resident aliens may also legally engage in the business of selling alcohol.⁵¹ State law also requires that every county or municipality which issues licenses to a licensee authorizing the manufacture, distribution, or sale of alcoholic beverages shall by resolution or ordinance adopt a policy and implement a process by which any disciplinary action against a licensee shall be reported to the State Department of Revenue within 45 days of any officer, department, agency, or instrumentality of the county or municipality taking such disciplinary action.⁵²

⁴⁷ O.C.G.A. § 3-5-42.

⁴⁸ O.C.G.A. § 3-6-40.

⁴⁹ O.C.G.A. § 3-5-43.

⁵⁰ See O.C.G.A. §§ 3-5-40, 3-6-40

⁵¹ It is important to remember that all licensing requirements, under Georgia law, are required to comply with state E-Verify and SAVE requirements concerning immigration mandates. For more information on Georgia state immigration requirements for local governments, please review the GMA publication "Immigration Mandates on Municipalities" which can be found at: <https://www.gmanet.com/Advice-Knowledge/GMA-Publications/Immigration-Mandates-on-Municipalities.aspx>

⁵² O.C.G.A. § 3-3-2.1(c).

V. Distance Requirements

State law imposes distance requirements on the location of businesses that engage in sales of alcohol from churches, school buildings, alcoholic treatment centers, and housing authority property. No business may offer to sell distilled spirits within 100 yards of any church building or within 200 yards of any school building, educational building, school grounds or college campus.⁵³ No business may offer to sell wine or malt beverages within 100 yards of a school building, school grounds, or college campus unless the location in question had its license issued before January 1, 1981.⁵⁴ No business may offer to sell distilled spirits within 100 yards of an alcoholic treatment center owned and operated by the state or a local government, unless the location in question had its license issued before January 1, 1981.⁵⁵ Additionally, no business may offer to sell any alcoholic beverages within 100 yards of any housing authority property, unless the location in question had its license issued before July 1, 2000.⁵⁶

The measurement of distances between the location selling alcohol and the facility is dependent on the type of facility to be measured and is governed state law and by a rule promulgated by the Georgia Department of Revenue.⁵⁷ For any alcohol license issued after March 31, 2007, the measurement must be measured by the most direct route of travel on the ground from the front door of the structure selling the alcohol to the front door of the structure of a church, government-owned treatment center, or retail package store, but in the case of schools it is to the nearest property line of the property being used as a school or for educational purposes.⁵⁸ Because, at least one of the measurements will always begin with a doorway, measurements cannot be made simply by using online maps but instead will always require individual measurement. It is important to take this into consideration when determining the amount of fees to be charged by the licensing local government to licensees as, although fees must be uniform for applicants, such fee schedule should represent the true cost of administering the application process.

There are several exceptions to the general distance requirements. The prohibition for the sale of wine and malt beverages within certain distances of churches and schools and the prohibition of the sales of all alcoholic beverages within a certain distance of alcohol treatment centers does not apply to applications for new licenses where sales at the location would have been legal at any time during the twelve months leading up to the

⁵³ O.C.G.A. § 3-3-21(a)(1)(A).

⁵⁴ O.C.G.A. § 3-3-21(a)(1)(B).

⁵⁵ O.C.G.A. § 3-3-21(a)(1)(C).

⁵⁶ O.C.G.A. § 3-3-21(e).

⁵⁷ Ga. Comp. R. & Regs. 560-2-2-.12.

⁵⁸ Ga. Comp. R. & Regs. R. 560-2-2-.12

time of application.⁵⁹ Grocery stores with floor space of at least 10,000 square feet of which 85 percent is reserved for the sale of food and other non-alcoholic items are allowed to sell wine and beer within 100 yards of school buildings or grounds if permitted by local ordinance.⁶⁰ Hotels of 50 rooms or more, which have been in continuous operation for a period of at least five years preceding July 1, 1981, and bona fide private clubs are exempt from the state distance requirements.⁶¹ Distance requirements for locations that sell alcohol for consumption on the premises only (sales by the drink) from churches, school, and colleges are established by local ordinance.⁶² Licensees for retail sale packages of alcoholic beverages for consumption off the premises may be regulated by municipalities as to the distances to college campuses, provided that such local distance regulation can only be less restrictive and not more restrictive than state statute and if no local regulation is implemented then the state distance requirements would apply.⁶³

It should be further noted that any restaurant now wanting to avail itself of a new municipal allowance for restaurants to sell beer and wine by the package would have to have measurements taken to comply with state and local distance requirements. This means that a restaurant which is allowed by the local government to have a package license as well as a consumption license would have to comply with distance requirements for package sales in relation to any package sales originating from the premises as well as distance requirements for consumption on the premises sales for any sales which are consumption on the premises sales.

Finally, there are also state laws governing the placement of retail package liquor stores which municipalities should be aware. State law prohibits new retail package liquor stores or relocations of existing retail package liquor stores engaged in the sale of distilled spirits from being within 500 yards of any other business licensed to sell package liquor at retail, as measured by the most direct route of travel on the ground.⁶⁴ These limitations for retail package liquor stores do not apply to licensed hotels, to locations licensed prior to July 1, 1997, nor to the renewal of such licenses, and does not apply to any location for which a new license is applied for if the sale of distilled spirits was lawful as such location at any time in the immediately preceding 12 months of an application.⁶⁵

⁵⁹ O.C.G.A. §3-3-21(a)(1)(B).

⁶⁰ *Id.*

⁶¹ O.C.G.A. § 3-3-21(b).

⁶² See O.C.G.A. § 3-3-21(b)(3).

⁶³ O.C.G.A. § 3-3-21(b)(4).

⁶⁴ O.C.G.A. § 3-4-47(a).

⁶⁵ *Id.*

VI. Sunday Sales

A. Authorization of Sunday Package Sales

Since 2011, municipalities that allow package sales of malt beverages and wine have been authorized to conduct referenda to determine whether to allow licensed retailers to engage in retail package sales of malt beverages and wine between 12:30 P.M. and 11:30 P.M. on Sundays. The city governing authority may, by ordinance or resolution, call for a special election occurring on one of several statutorily specified dates.⁶⁶ Should the governing authority choose to hold a Sunday sales referendum, the election superintendent shall publish the date and cause of the election every week for four weeks in the official county organ and will use the following ballot question:

- ☐ YES Shall the governing authority of _____
be authorized to permit and regulate package sales by
☐ NO retailers of both malt beverages and wine on Sundays
between the hours of 12:30 P.M. and 11:30 P.M.?⁶⁷

Municipalities that allow package sales of malt beverages, wine, and distilled spirits are authorized to conduct referenda to determine whether to allow licensed retailers to engage in retail package sales of malt beverages, wine, and distilled spirits between 12:30 P.M. and 11:30 P.M. on Sundays. Cities that allow distilled spirit sales on Monday through Saturday are not permitted to only allow malt beverage and wine sales on Sunday. The city governing authority may, by ordinance or resolution, call for a special election occurring on one of several statutorily specified dates.⁶⁸ Should the governing authority choose to hold a Sunday sales referendum, the election superintendent shall publish the date and cause of the election every week for four weeks in the official county organ and it will use the following ballot question:

- ☐ YES Shall the governing authority of _____
be authorized to permit and regulate package sales by
☐ NO retailers of malt beverages, wine and distilled spirits on
Sundays between the hours of 12:30 P.M. and 11:30 P.M.?⁶⁹

If a majority of voters vote in favor of Sunday sales, the ordinance or resolution approving such sales shall take effect upon the date specified in the ordinance or resolution. The local government holding the election bears the expense of the election. Retailers may only sell alcohol on Sundays that they are authorized to sell during the rest of the week.⁷⁰

⁶⁶ See O.C.G.A. § 21-2-540.

⁶⁷ O.C.G.A. §3-3-7(p).

⁶⁸ See O.C.G.A. § 21-2-540.

⁶⁹ O.C.G.A. § 3-3-7(q).

⁷⁰ See O.C.G.A. §3-3-7(p).

In 2013, the Sunday sales statute was amended to clarify that for any city which has approved the Sunday package sales of malt beverages and wine but at a later date chooses to have a referendum on the Sunday package sales of distilled spirits a negative vote by the citizens of the city or county on the second referendum would not nullify the results of the first referendum.⁷¹

B. Authorization of Sunday Sales by the Drink

Specific rules enabling local governments to authorize Sunday sales by the drink for consumption on the premises vary depending on the population of the county in which the jurisdiction is located.⁷² Cities anywhere, however, may utilize a general procedure to authorize sales by the drink at licensed retail locations that derive at least 50 percent of the annual gross sales from the sales of food and in licensed locations where at least 50 percent of the total annual gross income is from the rental of rooms for overnight lodging on Sunday from 12:30 P.M. to midnight.⁷³ To authorize such sales, a city must pass a resolution or ordinance calling for a referendum.⁷⁴ Elections pursuant to this section should comport with the provisions governing special elections that require that the election be held on one of several statutorily specified dates.⁷⁵ The ballot must read as follows:

- ☐ YES Shall the governing authority of _____
 be authorized to permit and regulate Sunday
☐ NO sales of distilled spirits or alcoholic beverages
 for beverage purposes by the drink?⁷⁶

If the measure passes, the city may then pass a regulatory ordinance allowing the issuance of licenses for Sunday sales.⁷⁷

Municipalities wishing to authorize sales by the drink for consumption on the premises from 11:55 P.M. Saturday night to 2:55 A.M. on Sundays may do so by passing an ordinance authorizing such sales.⁷⁸ A city may also simply enact an ordinance to revoke such authorization.⁷⁹

State law also allows local governments to authorize Sunday sales for certain types of facilities by ordinance without calling a referendum. Cities may authorize sales by the

⁷¹ O.C.G.A. § 3-3-7(q)(2).

⁷² See O.C.G.A. § 3-3-7.

⁷³ O.C.G.A. § 3-3-7(j).

⁷⁴ Id.

⁷⁵ See O.C.G.A. § 21-2-540.

⁷⁶ O.C.G.A. § 3-3-7(j)(2).

⁷⁷ O.C.G.A. § 3-3-7(j).

⁷⁸ O.C.G.A. § 3-3-7(m).

⁷⁹ Id.

drink from 12:30 P.M. to midnight Sunday for consumption on the premises of bowling centers by ordinance, without a referendum, provided that the bowling center derives at least 50 percent of its revenues from the renting of bowling lanes and equipment.⁸⁰ Cities in which Sunday sales are authorized by any other provision of law may authorize by ordinance the Sunday sale of alcohol in public stadiums with seating capacity of 2,500 or greater.⁸¹ Local governments are allowed to designate by ordinance or resolution one Sunday during each calendar year for alcohol sales from 12:30 P.M. to 12:00 Midnight.⁸²

C. Expansion of Sunday Sales Hours

In recent years, the Sunday sales statutes were amended even further to allow for Sunday sales by the drink and by package to take place earlier than 12:30 P.M., but the laws surrounding such changes can be somewhat confusing and complicated.

In 2018, legislation passed allowing local governments to hold an additional referendum for Sunday Sales by the drink to begin at 11:00 A.M. To authorize such sales, a city must pass a resolution or ordinance calling for a referendum.⁸³ The ballot must read as follows:

☐ YES Shall the governing authority of _____ be
authorized to _____ permit and regulate Sunday
☐ NO sales of distilled spirits or alcoholic beverages for
beverage purposes by the drink from 11:00 A.M. to
12:30 P.M.?⁸⁴

If the referendum measure passes, the city may then pass a revision of their Sunday sales regulatory ordinance allowing for the lawful change in start time.⁸⁵

In the 2020 legislative session, the options for Sunday sales hours were further expanded to provide for expansion of hours for sales by the package on Sundays and to reduce the number of required referendums in certain situations.

Pursuant to these changes, once municipality has held and approved a referendum allowing for the sale of malt beverages and wine, but not distilled spirits, by the drink on Sundays from 12:30 P.M. to 12:00 Midnight and has also been authorized pursuant to a referendum 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., that municipality would be allowed to hold a combined referendum to expand the hours of Sunday sales both for package sales and

⁸⁰ O.C.G.A. § 3-3-7(o).

⁸¹ O.C.G.A. § 3-3-7(n).

⁸² O.C.G.A. § 3-3-7(r).

⁸³ O.C.G.A. § 3-3-7(j.1).

⁸⁴ O.C.G.A. § 3-3-7(j.1)(2).

⁸⁵ See O.C.G.A. § 3-3-7(j.1)(1).

by the drink from 11:00 A.M. to 12:00 Midnight.⁸⁶ To authorize such expansion of Sunday sales hours both by the package and by the drink, a city must pass a resolution or ordinance calling for a referendum. The ballot must read as follows:

- ☐ YES Shall the governing authority of (name of municipality or county) be authorized to permit and regulate Sunday sales of malt beverages and 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?"⁸⁷
- ☐ NO

Similarly, the 2020 legislative changes also allow municipalities which have already held and approved a referendum allowing for the sale of malt beverages, wine, and distilled spirits, by the drink on Sundays from 12:30 P.M. to 12:00 Midnight and also held and approved a referendum allowing for the sale of malt beverages, wine, and distilled spirits by the package on Sundays from 12:30 P.M. to 11:30 P.M. to hold a combined referendum to expand the hours of Sunday sales both for package sales and by the drink from 11:00 A.M. to 12:00 Midnight.⁸⁸ To authorize such expansion of Sunday sales hours both by the package and by the drink, a city must pass a resolution or ordinance calling for a referendum. The ballot must read as follows:

- ☐ 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?"⁸⁹
- ☐ NO

The changes enacted by the Georgia General Assembly during the 2020 legislative session also provided for exceptions to allow municipalities to expand the Sunday sales hours by the package in their jurisdiction merely by the passage of a resolution or ordinance when a referendum has already been held to allow for expanded hours on Sundays by the drink. This exception, however, does not allow municipalities to skip over the requirement of having a first referendum on the sale of alcohol on Sundays from 12:30 p.m. before they hold a referendum on whether alcohol may be sold from 11:00 a.m. on a Sunday. If a municipality has not already held a referendum on the question of whether or not to allow Sunday sales of alcohol, the city must first hold a referendum to allow Sunday sales from 12:30 P.M. before they can hold a referendum on whether to allow Sunday sales from 11:00 A.M.

⁸⁶ O.C.G.A. § 3-3-7(j.2)(1).

⁸⁷ O.C.G.A. § 3-3-7(j.2)(2).

⁸⁸ O.C.G.A. § 3-3-7(j.3)(1).

⁸⁹ O.C.G.A. § 3-3-7(j.3)(2).

If the municipality has already held a referendum to allow of Sunday sales from 12:30 P.M. and has subsequently held a referendum to allow for Sunday sales by the drink from 11:00 A.M. to 12:00 Midnight, then the municipality may expand the hours of package sales on Sundays by the mere passage of a resolution or ordinance, without the need for another referendum.

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 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 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.⁹⁰

Likewise, municipalities in which package sales by retailers of malt beverages, wine, and distilled spirits, have been authorized on Sunday from 12:30 P.M. to 11:30 P.M. pursuant to a referendum 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 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.⁹¹

D. The Sunday Sales Elections Conundrum

The Sunday sales statute calls for referendums in many circumstances in order for a municipality to effectuate both sales of alcohol on Sundays and to allow for changes in hours of such sales on Sundays. Unfortunately, these provisions of state law contain specific language governing how such referendum elections are to be called and completed which sometimes contradicts language in the Georgia elections code. Normally, when two state laws conflict the most recently enacted law will control but in the case of the Georgia Sunday sales laws and the Georgia elections code, there is not a complete conflict, which leads to a very complicated legal issue.

Multiple provisions of the Sunday sales statute governing the calls for referenda to make changes in how or when alcohol is sold on Sundays state that “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 Sunday sales to the electors of the county or municipality for approval or rejection. The superintendent shall set the date of the

⁹⁰ O.C.G.A. § 3-3-7(p.1).

⁹¹ O.C.G.A. § 3-3-7(q.1).

election for a day not less than 30 nor more than 60 days after the date of the issuance of the call.”⁹²

The language quoted above is not new to Georgia law. The problem with the language in the alcohol code arises when looking at the Georgia elections code, particularly the laws governing special elections, such as alcohol referendums.⁹³ This elections code states that when a special election is held “in conjunction with the presidential preference primary, a state-wide general primary, or state-wide general election” the call for the election must be “at least 90 days prior to the date of such presidential preference primary, state-wide general primary, or state-wide general election.”⁹⁴ Moreover, the elections code limits the dates for a special election to put a question to the voters in even-numbered years to the date of the presidential preference primary, the general primary, or the Tuesday after the first Monday in November.⁹⁵

A city looking to have the “brunch bill” special election on the first Tuesday in November in an even year, therefore, there would seem to be a direct contradiction in the law as to when the call for the special election must be done. The elections provisions in the Sunday sales law would require the call for the election to be between 60 and 30 days before the November date while the elections code would require the call for the election to be at least 90 days before the November date.

However, the conflict between the Sunday sales law and the elections code is not completely irreconcilable. That is because the 90-day time frame in the elections code does not apply if the special election held on the same day as the presidential preference primary, statewide general primary, or statewide general election in an even-numbered year is conducted completely separate and apart from such statewide election. To be conducted separately, it must use different ballots or voting equipment, facilities, poll workers, and paperwork.⁹⁶ Therefore, when the election date involves a presidential preference primary, state-wide general primary, or state-wide general election, technically, a municipality would be able to conduct a Sunday sales referendum using the timeframes set forth in the Sunday sales statute if the alcohol election is conducted completely separate and apart from such statewide election using different ballots or voting equipment, facilities, poll workers, and paperwork. Obviously, this is expensive and impractical in almost every conceivable situation.

For elections which are not the same dates as a presidential preference primary, statewide general primary, or statewide general election, the elections code states that

⁹² See O.C.G.A. §§ 3-3-7(i)(2), 3-3-7(j)(2), 3-3-7(j.1)(2), 3-3-7(j.2)(2), 3-3-7(j.3)(2), 3-3-7(k)(2).

⁹³ See O.C.G.A. § 21-2-540(b).

⁹⁴ *Id.*

⁹⁵ O.C.G.A. § 21-2-540(c)(2)(B).

⁹⁶ O.C.G.A. § 21-2-540(b).

“at least 29 days shall intervene between the call of a special election and the holding of the same.”⁹⁷ If the referendum on 11:00 a.m. Sunday sales for consumption on the premises is held during an election which does not involve a presidential preference primary, a state-wide general primary, or state-wide general election then the 29-day call period would apply, rather than the 90-day call period. This 29-day call period can be read with the provisions in the alcohol code and not create any conflicts because the time period of 30 to 60 days clearly is more than 29 days and such call for the alcohol election can work within the framework of both the alcohol code and the elections code.

The Georgia courts have repeatedly held that they must presume that the legislature intended to do what they stated by passage of an Act and that the courts have to construe provisions of duly enacted laws so as to not render them meaningless. In this case, it is likely that the courts would interpret the provisions of the law to conclude that the legislature did not intend for alcohol questions to be posed in conjunction with statewide elections subject to the 90-day time-frame unless the city holds such election separately. Again, conducting such elections in full compliance with the black-letter law of the statute may prove unwieldy, impractical, and expensive. It would be wise for municipalities to consult with their city attorney before embarking on the process of conducting any referendums pursuant to the Sunday sales law just to ensure that all legal requirements are followed.

⁹⁷ Id.

VII. Taxation

In addition to alcohol licensing fees, sales taxes, and occupation taxes cities may levy excise tax on the sale of alcohol within their jurisdictions at these rates:

Distilled Spirits ⁹⁸	Malt Beverages ⁹⁹	Wine ¹⁰⁰
<p>Package sales either retail or wholesale:</p> <p>Rate of up to 22¢ per liter (excluding fortified wine).</p> <p>Sales by the drink on retailers:</p> <p>Rate of up to 3% per drink.</p> <p>Exceptions:</p> <p>Dealers collecting the tax shall be reimbursed a percentage of the tax due and accounted for in the form of a deduction in submitting, reporting, and paying the amount due, if the amount is not delinquent at the time of payment under the formula prescribed in the tax code.</p>	<p>In bulk containers of not more than 15.5 gallons to be paid by the wholesaler:</p> <p>Rate of up to \$6 per container.</p> <p>In bottles, cans or other containers:</p> <p>Rate of up to 5¢ per 12 ounces.</p> <p>Exceptions:</p> <p>Malt Beverages which contain less than ½ of one percent alcohol by volume.</p>	<p>First sale by package:</p> <p>Rate of up to 22¢ per liter.</p> <p>Exceptions:</p> <p>Wine sold solely for use in religious services, any sale exempt from taxation by the state under the U.S. Constitution, sales to persons outside the state for resale or consumption outside the state, and wines which contain less than ½ of one percent alcohol by volume.</p>

There are some exceptions to taxation of alcoholic beverages in certain circumstances. Wine sold solely for use in religious services, any sales exempt from taxation by the state under the U.S. Constitution, sales to persons outside the state for resale or consumption outside the state, and wines which contain less than ½ of one percent alcohol by volume

⁹⁸ See O.C.G.A. §§ 3-4-80, 3-4-130, 48-8-50.

⁹⁹ See O.C.G.A. §§ 3-5-80, 3-5-90.

¹⁰⁰ See O.C.G.A. §§ 3-6-60, 3-6-70, 3-6-71.

are not taxable.¹⁰¹ Malt beverages which contain less than ½ of one percent alcohol by volume are not taxable under local alcohol excise tax.¹⁰² Also, retailers collecting alcohol excise tax are reimbursed a percentage of the tax due and accounted for in the form of a deduction in submitting, reporting, and paying the amount due, if the amount due is not delinquent at the time of payment under the formula prescribed in the tax code.¹⁰³ Since September 1, 2017, breweries and distilleries that are authorized to sell by the drink and by the package on their premises are responsible for paying taxes directly to the state and appropriate local government.¹⁰⁴

¹⁰¹ O.C.G.A. §§ 3-6-70, 3-6-71.

¹⁰² O.C.G.A. § 3-5-90.

¹⁰³ O.C.G.A. § 48-8-50.

¹⁰⁴ O.C.G.A. §§ 3-5-24.1(c), 3-4-24.2(d).

VIII. Home Delivery of Alcohol

Following the legislative changes of 2020, the home delivery of sealed packages of alcohol by "package goods retailers", is now permitted where not prohibited by local ordinance or resolution. A "package goods retailer" is defined in the law as a person licensed under this title as a retailer to sell alcoholic beverages in unbroken packages for consumption off the premises who is not a manufacturer of alcoholic beverages, carrier, shipper, or person that take delivery of alcoholic beverages from a retailer or manufacturer.¹⁰⁵

A packaged goods retailer may sell and deliver malt beverages and wine in unbroken packages to an individual for personal use (but not for resale), subject to certain statutory terms and conditions, unless such delivery is prohibited by a local ordinance or resolution.¹⁰⁶ Additionally, retail package liquor stores that are also packaged goods retailers may deliver distilled spirits in unbroken packages if the products are sold to an individual for personal use (and not for resale), unless prohibited by a local ordinance or resolution.¹⁰⁷ While the legislation is ultimately silent on whether pour permit holders (i.e. restaurants) are eligible to deliver malt beverages and wine because the state law does not distinguish between package licenses and by the drink licenses for malt beverages and wine and any such distinctions are made at the local licensing level. Since restaurants are not retail package liquor stores, they will only be eligible to deliver malt beverages and wine. In order for restaurants to deliver malt beverages and wine, however, they would need to obtain the proper local license from the municipality to allow them to sell malt beverages and wine by the package. All packaged goods retailers, including eligible restaurants, are permitted to use their own website or apps for processing orders, and they can use websites or apps owned by third parties.¹⁰⁸

The new laws governing home delivery also permit the Revenue Commissioner to promulgate and enforce rules and regulations that he deems necessary to effectuate the delivery process.¹⁰⁹ This includes providing rules and regulations governing the training of individuals making deliveries. As of the date of this publication, the Department has indicated that instead of releasing traditional regulations, they are currently only providing the "Delivery of Alcoholic Beverages and Alcoholic Beverage Delivery Curriculum."¹¹⁰

¹⁰⁵ O.C.G.A. § 3-3-10(a)(7). Additionally, a licensed retail package liquor store that is also a packaged goods retailer may deliver distilled spirits under the same stipulations as those that are not licensed retail package stores (see O.C.G.A. § 3-3-10(d.1)). Examples of packaged goods retailers that are authorized to deliver malt beverages, wine, or distilled spirits (depending on their designation) include grocery stores, restaurants, convenience stores, and stores selling distilled spirits.

¹⁰⁶ O.C.G.A. § 3-3-10(b).

¹⁰⁷ O.C.G.A. § 3-3-10(d.1).

¹⁰⁸ O.C.G.A. §§ 3-3-10(c), 3-3-10(d).

¹⁰⁹ O.C.G.A. § 3-3-10(g).

¹¹⁰ See <https://dor.georgia.gov/alcoholic-beverage-delivery-training-curriculum>

This provides information and guidance for alcohol retail licensees, their employees, and third-party services on the delivery of alcoholic beverages. It also provides the minimum curriculum requirements for alcohol beverage delivery training courses.¹¹¹ Once an entity (a licensed retailer, employee, or a third-party service) has completed a training that meets the minimum curriculum requirements, they are certified to deliver provided they meet all other requirements.¹¹²

For municipalities, deliveries can only be made within the municipal jurisdiction in which the package goods retailer is physically located.¹¹³ The new law also provides detailed requirements for who may purchase alcohol for delivery and how the deliveries must be made.¹¹⁴ The customer must establish and maintain an account with the package goods retailer in order to make a purchase of alcohol for delivery, and upon delivery must present a valid ID showing that they are over 21 years of age.¹¹⁵ Among other requirements the deliveries must be made by a person of 21 years of age or older who holds a valid Georgia driver's license and has been subject to a background check and criminal record check.¹¹⁶

Local governments may need to decide whether they want to develop different licenses for restaurants, such as a separate license for delivery or whether to allow them to deliver under their current “pour” license with no additional requirements. Local governments might also consider developing a hybrid license that allows for “pour” or retail sales (as applicable) as well as delivery under the same license, and what such a license and application process might entail.

¹¹¹ O.C.G.A. § 3-3-10(e).

¹¹² O.C.G.A. § 3-3-10(b)(5).

¹¹³ O.C.G.A. § 3-3-10(b)(10).

¹¹⁴ See O.C.G.A. §§ 3-3-10(c) through 3-3-10(d)(6).

¹¹⁵ O.C.G.A. §§ 3-3-10(b)(1), 3-3-10(b)(6).

¹¹⁶ O.C.G.A. § 3-3-10(b)(5).

IX. Tasting Events and Samples

New and amended statutory provisions enacted in 2020 also allow for, and provide rules for, alcoholic beverage tasting events to take place.¹¹⁷ Retail package liquor stores may conduct up to fifty-two (52) tasting events per calendar year.¹¹⁸ Tasting events may only take place during the hours that the licensed premises may lawfully sell unbroken packages of alcohol.¹¹⁹ Such tasting events must not last longer than four hours, with only one tasting event being held per day.¹²⁰ Only one type of alcoholic beverage may be served at a tasting event, either malt beverages, or wine, or distilled spirits.¹²¹ However, more than one brand of each type of alcoholic beverage may be offered so long as not more than four packages are open at any one time.¹²² Packages opened for the purposes of providing samples may not be sold, but instead must be kept locked in a secure room or cabinet except when in use during a tasting event.¹²³ Additionally, the new law provides limitations on how much of each type of alcoholic beverage may be served during each tasting, and under what circumstances food may be provided during the tasting event.¹²⁴

State law also allows representatives or salespersons of a manufacturer or wholesaler to open 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.¹²⁵ Any such sample must be provided and consumed in the presence of the 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.¹²⁶ Additionally, any package from which that sample is provided must be taken with the representative or salesperson from the licensed premises after providing such samples.¹²⁷

¹¹⁷ O.C.G.A. §§ 3-3-26, 3-15-1, 3-15-2.

¹¹⁸ O.C.G.A. § 3-15-2.

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ O.C.G.A. § 3-3-26.

¹²⁶ *Id.*

¹²⁷ *Id.*

X. General Prohibitions

State law prohibits certain conduct with regard to the sale of alcohol and with regard to certain behavior in locations that sell alcohol but allows some room for local variation. As mentioned earlier, Sunday sales of alcohol are prohibited statewide, unless a local governing authority has taken action to permit them.¹²⁸ State law prohibits the sale of alcohol within 250 feet of any polling place on election days¹²⁹. Local governing authorities may by ordinance choose to extend the prohibition of alcohol sales citywide on election days through passage of an ordinance.¹³⁰ Additionally, local governments may prohibit the sale of alcohol within their jurisdiction on Christmas Day.¹³¹

In addition to distance requirements between facilities that sell alcohol and schools, state law prohibits the possession of alcoholic beverages upon the grounds of any public elementary school, public high school, or public trade, vocational, or industrial school unless they are being used for educational purposes.¹³² No alcohol may be served to any person that is in a state of noticeable intoxication.¹³³ No one may furnish alcohol to anyone under the age of 21 unless the alcohol is to be used for a religious ceremony or for medical purposes pursuant to a prescription.¹³⁴ In order to serve or sell alcohol, however, an individual need only be 18 years old. Persons younger than 18 may sell packaged malt beverages or wine at grocery stores and convenience stores for consumption off the premises.¹³⁵ Licensed alcohol retail businesses must post in a conspicuous place a notice containing the provisions of the laws of Georgia that deal with the unlawful sale of such items to underage persons and the penalties for violations of those laws.¹³⁶ It is also illegal to furnish alcohol to prison inmates and patients in state mental hospitals.¹³⁷

Various particular sexual activities are forbidden on the premises of licensed establishments.¹³⁸ Most of these types of regulations on the local level are best suited for an adult entertainment ordinance that has been prepared by legal counsel with due consideration given to state and federal Constitutional case law.

If a licensee or employee of a licensee is subject to disciplinary action from citation or arrest arising from the violation of any state or local law, rule, regulation or ordinance relating to the manufacture, distribution, sale, or possession of alcoholic beverages the

¹²⁸ See O.C.G.A. § 3-3-7.

¹²⁹ O.C.G.A. § 3-3-20(b).

¹³⁰ *Id.*

¹³¹ O.C.G.A. § 3-3-20(c).

¹³² O.C.G.A. § 3-3-21.1

¹³³ O.C.G.A. § 3-3-22.

¹³⁴ O.C.G.A. § 3-3-23.

¹³⁵ O.C.G.A. § 3-3-24.

¹³⁶ O.C.G.A. § 3-3-24.2.

¹³⁷ O.C.G.A. § 3-3-25.

¹³⁸ O.C.G.A. § 3-3-40 et seq.

city issuing the license is required to notify the state Department of Revenue within 45 days of issuance or arrest.¹³⁹

¹³⁹ O.C.G.A. § 3-3-2.1.

XI. Special Licenses

A. Private Clubs

Private clubs that meet certain requirements may sell alcoholic beverages including distilled spirits by the drink for consumption on the premises on Sunday.¹⁴⁰ To qualify as a bona fide private club, the organization must have been in existence at least one year prior to the filing of the license application, have at least 75 dues paying members, own or lease building space which has a suitable kitchen and dining room space and equipment, be staffed with a sufficient number of employees for preparing meals, and have no member or employees receiving any profits from the sale of alcohol.¹⁴¹ The existence of private clubs in a city must be approved by referendum and are still licensed by the local governing authority.¹⁴² However, such clubs may sell alcoholic beverages on Sunday even if Sunday sales are not permitted at locations open to the public elsewhere in the city.¹⁴³ Such clubs are also subject to taxation for the sale of distilled spirits at the same rate for retailers and wholesalers of distilled spirits.¹⁴⁴

B. Caterers

Caterers that hold alcoholic beverage license may obtain additional alcoholic beverage licenses from the same local government that grants their on-premises license for off-premises sales and be charged an additional license fee, provided that the combined license fees do not exceed \$5,000 annually.¹⁴⁵ Caterers engaging in off-premises catered events outside of their primary licensing authority may be charged a permit fee of \$50 per event as well as excise taxes by the local government into which the alcoholic beverages have been brought.¹⁴⁶ Caterers may only serve alcoholic beverages at catered events that are legal to be sold in the jurisdiction where the event is held.¹⁴⁷ Caterers, unlike other establishments, may not employ anyone under the age of 21 to sell or serve alcohol.¹⁴⁸

C. Nonprofit Museums

Nonprofit museums that educate the public about local, state and United States history and hold title to a structure listed on the National Register of Historic Places can apply for an annual occupation license to manufacture distilled spirits for \$100 from the Department

¹⁴⁰ O.C.G.A. § 3-7-2.

¹⁴¹ O.C.G.A. § 3-7-1.

¹⁴² O.C.G.A. § 3-7-40 et seq.

¹⁴³ O.C.G.A. § 3-7-2; Ga. Op. Att'y Gen. No. U96-23 (Nov. 15, 1996).

¹⁴⁴ O.C.G.A. §§ 3-7-60, 3-7-61.

¹⁴⁵ O.C.G.A. § 3-11-2.

¹⁴⁶ O.C.G.A. § 3-11-3.

¹⁴⁷ O.C.G.A. § 3-11-4.

¹⁴⁸ O.C.G.A. § 3-11-4(e).

of Revenue (DOR).¹⁴⁹ The DOR will only issue such a license if the nonprofit museum is located in a municipality or county where production of distilled spirits is authorized and the local government issues a local license.¹⁵⁰ Local licenses for such museums are capped at \$100 annually.¹⁵¹ Production of distilled spirits is limited to not more than 800 liters in a calendar year, of which storage and aging must be done on premises only.¹⁵² These educational spirits can only be provided as samples and are not to be offered for sale.¹⁵³ Samples of one-half of one ounce may be offered free of charge to legal-aged guests who have completed an educational tour.¹⁵⁴

D. Brewpubs

Brewpubs, as defined by Georgia code, are eating establishments where malt beverages are manufactured, subject to a statutory barrel production limitation.¹⁵⁵ As an “eating establishment,” brewpubs may be licensed to sell distilled spirits, wine and malt beverages, yet must derive at least 50 percent of its annual gross food and beverage sales from prepared meals or food.¹⁵⁶ Brewpubs must obtain a special license from the Department of Revenue but may only do so if the jurisdiction in which it intends to operate permits the sale of alcohol.¹⁵⁷ Local governments may license a brewpub for both alcohol sales for consumption on premises and for package sales of the malt beverage produced on site, as well as, wine and malt beverages by the package not produced on site.¹⁵⁸ Brewpubs are limited to the production of 10,000 barrels of malt beverage annually, of which a maximum of 5,000 barrels may be sold to licensed wholesale dealers.¹⁵⁹ Brewpubs may not sell their product directly to other retailers.¹⁶⁰ Cities may regulate Brewpubs insofar as such regulation comports with state law.¹⁶¹ Additionally, the Commissioner of the Department of Revenue is authorized to promulgate and enforce rules governing brewpubs.¹⁶²

¹⁴⁹ O.C.G.A. § 3-9-7(b).

¹⁵⁰ O.C.G.A. § 3-9-7(b)(2).

¹⁵¹ O.C.G.A. § 3-9-7(e).

¹⁵² O.C.G.A. § 3-9-7(b)(1).

¹⁵³ O.C.G.A. § 3-9-7(b)(3).

¹⁵⁴ O.C.G.A. § 3-9-7(c).

¹⁵⁵ O.C.G.A. § 3-1-2(3).

¹⁵⁶ *Id.*

¹⁵⁷ O.C.G.A. § 3-5-36(1).

¹⁵⁸ O.C.G.A. § 3-5-36(4).

¹⁵⁹ O.C.G.A. § 3-5-36(2).

¹⁶⁰ O.C.G.A. § 3-5-36(2)(D).

¹⁶¹ O.C.G.A. §§ 3-1-2, 3-5-36.

¹⁶² O.C.G.A. § 3-5-37; *See also* Ga Comp. R. & Regs. 560-2-8-.01 et seq.

G. Farm Wineries

Farm wineries are wineries which makes at least 40 percent of its annual production from agricultural produce grown in the state where the winery is located.¹⁶³ Farm wineries must be located on premises, a substantial portion of which is used for agricultural purposes, including the cultivation of grapes, berries, or fruits to be utilized in the manufacture or production of wine by the winery; or must be owned and operated by persons who are engaged in the production of a substantial portion of the agricultural produce used in its annual production.¹⁶⁴ A Georgia farm winery is a farm winery which is licensed by the commissioner to manufacture wine in Georgia.¹⁶⁵

Farm wineries are allowed to conduct Sunday sales of their wine and the wine of any other Georgia farm winery licensee during the same hours on Sundays as applicable in that municipality to package licensees or consumption on the premises licensees, as applicable.¹⁶⁶ Farm wineries, however, are not allowed to sell wine on any other premises which are not actually located on the property where such farm wine is produced, except in special entertainment districts designated by the local governing authority of the municipality.¹⁶⁷

The Commissioner of the Department of revenue may authorize any farm winery licensee to sell its wine and the wine of any other farm winery licensee for consumption on the premises at facilities located on the premises of the winery or on property located contiguous to the winery and owned by the winery or by an affiliate of the winery in any municipality in which the sale of wine is lawful.¹⁶⁸ Additionally, the Commissioner of the Department of Revenue, in any municipality in which the sales of distilled spirits, malt beverages, and wines is lawful, may authorize such licensee to make sales of distilled spirits, malt beverages, and wines not produced by a farm winery for consumption in its tasting rooms and at facilities located on the premises of the winery or on property located contiguous to the winery and owned by the winery or by an affiliate of the winery, provided that any alcoholic beverages sold pursuant to this paragraph shall be purchased by the winery from a licensed wholesaler at wholesale prices.¹⁶⁹ These locations may sell their wine on the premises provided that they have a state and local license. Farm wineries are subject to local license fees and excise taxes.¹⁷⁰

¹⁶³ O.C.G.A. § 3-6-21.1(1).

¹⁶⁴ Id.

¹⁶⁵ O.C.G.A. § 3-6-21.1(2).

¹⁶⁶ O.C.G.A. § 3-6-21.2.

¹⁶⁷ Id.

¹⁶⁸ O.C.G.A. § 3-6-21.3.

¹⁶⁹ Id.

¹⁷⁰ O.C.G.A. § 3-6-21.1.

F. Bars and Restaurants

A “bar” is defined as a licensed retailer that derives 75 percent or more total annual gross revenue from the sale of alcoholic beverages on premises.¹⁷¹ Although the term “restaurant” is not defined in Title 3 of the Georgia code, certain provisions are delineated for “eating establishments.”¹⁷² Restaurants, properly licensed, may sell alcoholic beverages for consumption on premises during times allowable under state law or local ordinance. Because there is not any prohibition in state law from restaurants or bars selling malt beverages or wine by the package, local governments may choose to allow restaurants to sell malt beverages and wine by the package under their consumption on the premise license, a separate package license, or some hybrid license designed by the local government.¹⁷³ Restaurants may also permit a patron to remove one unsealed bottle of wine for consumption off premises, if securely resealed, with dated receipt and placed in a bag or other container.¹⁷⁴

G. Breweries and Distilleries

Breweries are licensed by the Department of Revenue to manufacture malt beverages in jurisdictions in which manufacture is permissible. Breweries are allowed to sell up to 3,000 barrels (for malt beverages a barrel is defined as 31 gallons) per year to sell for consumption on site or for package sales of not to exceed 288 ounces (1 case) per consumer per day.¹⁷⁵ Breweries continue to operate solely as manufacturers from a licensing standpoint in Georgia’s three-tiered system for the distribution and sale of malt beverages. Although the state has chosen to treat breweries as manufacturers and not retailers, minimum distance requirements still apply on the location of businesses that engage in sales of alcohol from churches, school buildings, alcoholic treatment centers, and housing authority property.¹⁷⁶ Brewers can continue to produce malt beverages for sale to wholesalers, and wholesalers can continue to sell the malt beverages to retail establishments and other wholesale dealers.

Brewers are allowed to sell packages of distilled spirits through their state manufacturer license and local manufacturer license and are not required to obtain a local retailer license. Additionally, because brewers will be acting as retailers without the ability of the local government to require a local retailer license, it is possible that municipalities may be able to instead charge a regulatory fee upon brewers if the city “customarily performs investigation or inspection of such businesses...as protection of the public health, safety, or welfare.”¹⁷⁷ If a city chooses to charge a regulatory fee it cannot be for revenue

¹⁷¹ O.C.G.A. § 3-1-2(2.1).

¹⁷² See O.C.G.A. § 3-3-7.

¹⁷³ O.C.G.A. § 3-3-10; See *also* Section VIII of this publication.

¹⁷⁴ O.C.G.A. § 3-6-4.

¹⁷⁵ O.C.G.A. § 3-5-24.1(a).

¹⁷⁶ See O.C.G.A. § 3-3-21; See *also* Section V of this publication.

¹⁷⁷ O.C.G.A. § 48-13-9

purposes and most likely should be related to the state's requirement that the brewer abide by the local days and times of sale.¹⁷⁸

When a brewer sells malt beverages by the drink to consumers for consumption on the brewer's property, the brewer is acting as a bar. Brewers are allowed to sell malt beverages by the drink for consumption on the premises through their state license and are not required to obtain a local pouring license. Consumption on premises and package sales by breweries must comport with local law.

Brewers serving or selling malt beverages directly to the public must remit all local excise taxes to the municipality in which it is located.¹⁷⁹ Before changes to the law enacted in 2017 these excise taxes were to be paid by the wholesale dealer.¹⁸⁰ It is important to remember, however, that brewers are now able to act in three different capacities, as a manufacturer, or as a retailer consumption on-premises, or consumption off-premises. When a brewer is acting as a manufacturer, the old law, requiring the wholesale dealer to pay the excise tax will apply. When a brewer is acting as a retailer, whether as consumption on-premises or consumption off-premises, however, the new law will come into play. Under this new law, brewers will be responsible for remitting to the municipality excise taxes for malt beverages served or sold by the brewer directly to the public.¹⁸¹ The rate of this excise tax has not changed and will still be at a rate of 5 cents per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces.¹⁸²

Distilleries are also licensed by the Department of Revenue to manufacture distilled spirits in jurisdictions in which manufacture is permissible. Distilleries are allowed to sell up to 500 barrels (a barrel of distilled spirits is defined as 53 gallons) of product per year for consumption on premises or by package not to exceed 2,250 ml per consumer per day if permitted by local law.¹⁸³ Distillers may not sell packages for less than the price retailers pay for them plus the amount of local excise tax owed.¹⁸⁴ Distilleries continue to operate solely as manufacturers from a licensing standpoint in Georgia's three-tiered system for the distribution and sale of distilled spirits. Although the state has chosen to treat distilleries as manufacturers and not retailers, minimum distance requirements still apply on the location of businesses that engage in sales of alcohol from churches, school buildings, alcoholic treatment centers, and housing authority property.¹⁸⁵ Distillers can produce distilled spirits for sale to wholesalers, and wholesalers can continue to sell the distilled spirits to retail establishments and other wholesale dealers.

Distilleries can also sell directly to consumers for consumption off the premises and are not required to secure a local retailer license or retail consumption dealer license. Additionally, because distillers will be acting as retailers or retail consumption dealers

¹⁷⁸ Id and O.C.G.A. § 48-13-9(c)(22)

¹⁷⁹ O.C.G.A. § 3-5-24.1(c)

¹⁸⁰ O.C.G.A. § 3-5-81

¹⁸¹ O.C.G.A. § 3-5-81(a) (effective September 1, 2017).

¹⁸² O.C.G.A. § 3-5-80(2)

¹⁸³ O.C.G.A. § 3-4-24.2(a).

¹⁸⁴ O.C.G.A. §§ 3-4-24.2(c), 3-4-26(b).

¹⁸⁵ See O.C.G.A. § 3-3-21; See also Section V of this publication.

without the ability of the local government to require a local retailer license or retail consumption license, it is possible that municipalities may be able to instead charge a regulatory fee upon distillers if the city “customarily performs investigation or inspection of such businesses...as protection of the public health, safety, or welfare.”¹⁸⁶ If a city chooses to charge a regulatory fee it cannot be for revenue purposes and most likely should be related to the state’s requirement that the distiller abide by the local days and times of sale.¹⁸⁷

When a distiller sells distilled spirits by the drink for consumption on the distiller’s premises, the distiller is effectively acting as a bar. Distillers can sell distilled spirits by the drink for consumption on the premises through their state license and are not required to secure a local pouring license.

Distillers serving or selling distilled spirits directly to the public must remit all taxes to the proper tax collecting authority, which includes city excise taxes that must be remitted directly to the city.¹⁸⁸ Local governments have the ability to impose a local excise tax on the sale of distilled spirits by the package at either the wholesale or retail level, which tax cannot exceed 22 cents per liter of distilled spirits.¹⁸⁹ It is up to the local government to impose the rate of taxation up to that 22 cents per liter, the manner of its imposition, how payment will be conducted, collection, and all other procedures related to that local excise tax on sales of distilled spirits by the package.¹⁹⁰

The Department of Revenue has broad oversight of distilleries and breweries. The commissioner may impose conditions or limitations on a license in the case of a violation. For instance, a brewery or distillery might lose the ability to sell on premises if found violating the law but might retain the right to manufacture and sell to distributors. Direct sales law for breweries and distilleries becomes effective September 1, 2017.¹⁹¹

H. Regional Economic Assistance Projects (REAPs)

Regional Economic Assistance Projects (REAPs) are special development projects that meet a series of state criteria and that have been approved by both the local government in which they are primarily located and by the Georgia Department of Community Affairs (DCA).¹⁹² Once approved, these projects may obtain a license to sell alcohol from the Department of Revenue (DOR) regardless of whether alcohol sales are permissible within the local jurisdiction in which the REAP is to be located. These projects must either be 250 acres or greater in size, or adjacent to lakes that are greater than 2,500 acres in size.¹⁹³ A REAP must also provide for at least three of the following criteria: include one

¹⁸⁶ O.C.G.A. § 48-13-9

¹⁸⁷ *Id.* and O.C.G.A. § 48-13-9(c)(22)

¹⁸⁸ O.C.G.A. § 3-4-24.2(d)

¹⁸⁹ O.C.G.A. § 3-4-80(a)

¹⁹⁰ O.C.G.A. § 3-4-80(b)

¹⁹¹ See O.C.G.A. §§ 3-4-24.2, 3-5-24.1.

¹⁹² O.C.G.A. § 50-8-190(6).

¹⁹³ O.C.G.A. § 50-8-191(c).

or more regulation 18 hole golf courses with a clubhouse providing food service, or have a commercial boat marina with not less than 300 ships, and a facility providing food service; include a full service restaurant with minimum seating for 75 more persons; include at least 100 residential units; include at least 200 rooms for overnight stays; include conference facilities with capacity for 150 participants; or be located in a county in which state operated facility or authority provides services or products, or both, to the general public.¹⁹⁴ Developers must present applications for designation as a REAP to the local government in which the project is to be located.¹⁹⁵ Those sales conducted at the REAP which are permitted under the applicable local government ordinance are governed by the local licensing process. After a project has been certified as a REAP by the DCA, the DOR may issue an alcohol license for the sales of all alcoholic beverages at all times not permitted by the applicable local government but which might be permitted in any other local jurisdiction until such time as those sales are permitted by the local jurisdiction.¹⁹⁶ All sales of alcoholic beverages at a REAP may be taxed by the local government regardless of whether such sales are permitted or licensed by local ordinances. DCA may promulgate rules and regulations governing REAPs.¹⁹⁷

I. Public Golf Courses

The Department of Natural Resources or any county or municipality that operates a public golf course and provides food or drink for retail sale incident to the operation of the golf course may sell malt beverages, wine, and distilled spirits by the drink as incidental to operating the golf course upon obtaining a retail consumption license.¹⁹⁸

¹⁹⁴ O.C.G.A. § 50-8-192.

¹⁹⁵ O.C.G.A. § 50-8-191(a).

¹⁹⁶ See O.C.G.A. § 50-8-190 et seq.

¹⁹⁷ O.C.G.A. § 50-8-195; See also Ga Comp. R. & Regs. 110-20-1-.01 et seq.

¹⁹⁸ O.C.G.A. § 3-8-2.

XII. Significant Case Law

The cases summarized below recognize the broad power that cities have to regulate sales of alcoholic beverages, provided that regulation operates within acceptable constitutional boundaries and in accordance with the state statutory scheme on alcoholic beverage licensing. A review of these cases would prove useful to a city enacting alcohol ordinances.

Consolidated Government of Columbus v. Barwick, 274 Ga. 176 (2001)

The Georgia Supreme Court held that an alcoholic beverage licensing ordinance that distinguishes between alcohol establishments in a riverfront district and those elsewhere in the city and establishes different regulations based on the district where the business is located is not unconstitutional. The Court used a rational basis test to determine that the city had not violated the license applicant's equal protection rights under the federal or state constitutions. The Court held that subjecting establishments inside the riverfront district to less stringent distance requirements served a legitimate purpose of encouraging businesses to locate in the district.

Chu v. Augusta-Richmond County, 269 Ga. 822 (1998)

The Georgia Supreme Court held that a permit denial based on considerations of the number of licensees already in the area, whether a site selling alcohol was likely to attract minors, and the effect of the new establishment on the traffic and general character of the neighborhood was valid because the local ordinance specifically allowed consideration of those factors. Chu applied for a new license to sell beer and wine by the package for consumption off premises. She had operated a convenience store licensed to sell beer and wine for nine years and was interested in closing her store and moving it across the street to a new site. At the commission meeting where her application was considered, a resident objected to issuance of the new license citing proximity of the new store to a high school scheduled for construction, an existing elementary school and two churches. The resident claimed that, although the site complied with the state law and local ordinance on distance from schools, the store would become a "hangout" for minors due to its proximity to the new high school. The commission denied the application. The trial court concluded that the ordinance provided specific ascertainable standards for issuance of alcoholic beverage licenses, that the commission did not apply the ordinance in an arbitrary or capricious manner and did not abuse its discretion in denying the application. The Georgia Supreme Court affirmed the trial court's decision.

Goldrush II v. City of Marietta, 267 Ga. 683 (1997)

The Georgia Supreme Court held that a municipal ordinance that did not allow liquor to be served at adult entertainment establishments to be valid. Following ratification of a

1994 amendment to the Georgia Constitution, the Marietta City Council amended the city's adult entertainment ordinance to provide that a liquor license would not be issued for a location that also required an adult entertainment license. The amended ordinance provided that it would not apply to current license holders until several months after its enactment. Several adult entertainment establishments sued the city, its council members and mayor seeking a declaratory judgement on the constitutionality of Marietta's ordinance, injunctive relief against enforcement of the ordinance and damages. The trial court granted summary judgement to the defendants and denied injunctive relief to the plaintiffs. The court held that the ordinance did not violate due process since the plaintiffs would receive notice and an opportunity to be heard should their application for an adult entertainment license or liquor license be denied. Since the alcoholic beverage ordinance set forth criteria, which, if met, would result in the issuance of a license, and specified that the license may be suspended or revoked only upon a showing of cause, the court found that the city code created a property interest in the license. However, because the ordinances expressly limited the duration of a license issued by the city to one year and required renewal each year, the court held that the city code made it clear that licensees did not have a vested right to continued re-issuance of their annual licenses and did not have a vested right to renewal of their licenses, the court held that they did not have claims for unconstitutional application of retrospective laws, impairment of contract or taking of property. Finally, the court held that the mayor and council members were not individually liable because there was no evidence that they acted oppressively, maliciously, corruptly or without authority of law so as to divest themselves of legislative immunity.

Gebrekidan v. City of Clarkston, 298 Ga. 651 (2016)

An operator of a convenience store which sells package alcoholic beverages successfully challenged her conviction and fine for violating the City of Clarkston's ordinance prohibiting retailers of alcoholic beverages from allowing electronic or mechanical gaming machines on their premises. The City of Clarkston enacted an ordinance, to be part of their alcoholic beverage code, which prohibited dealers in package sales of alcohol from having any electronic or mechanical game machine on their premises. The state legislature enacted a statutory framework for coin operated amusement machines (COAM) which did not contain express statutory language preempting local ordinances on the subject of COAM. The Clarkston ordinance covered a variety of machines, including COAM. Gebrekidan was cited under the city ordinance and challenged the validity of the ordinance. The trial court held that the city ordinance was a fair and reasonable ordinance under the city's police powers and the Superior Court of DeKalb County affirmed the conviction. Gebrekidan then appealed to the Supreme Court of Georgia. The Court held that under the Uniformity Clause the General Assembly may preempt local ordinances on the same subject as a general law. The COAM statutory

framework was very comprehensive according to the Court. The Court presumed that the General Assembly meant to occupy the entire field of regulation on COAM and thus the gaps left in the code were intended to be unregulated matters rather than spaces for the local governments to occupy.

XIII. Additional Resources

GMA Guidance:

GMA Alcoholic Beverage Excise Tax Compliance Service

<https://www.gacities.com/What-We-Do/Service/Revenue-Opportunities/Alcoholic-Beverage-Excise-Tax-Compliance-Service.aspx>

Special Event Permits

<https://www.gacities.com/Resources/Reference-Articles/Special-Event-Permits-for-the-Sale-of-Alcohol.aspx>

Alcohol Licensing & Background Check Video

<https://www.gacities.com/Resources/Reference-Articles/Regional-Workshop-Background-Checks,-Alcohol-Lice.aspx>

Model Bar Disciplinary Action Ordinance

<https://www.gacities.com/Resources/Sample-Documents/Ordinances-Agreements/Model-Bar-Disciplinary-Action-Ordinance.aspx>

Model Sunday Package Sale Ordinance

<https://www.gacities.com/Resources/Sample-Documents/Ordinances-Agreements/Model-Sunday-Package-Sales-Ordinance.aspx>

GMA Detailed Guidance and Model Ordinance on Breweries & Distilleries

<https://www.gacities.com/Resources/Sample-Documents/Ordinances-Agreements/Guidance-Model-Ordinances-Breweries-and-Distill.aspx>

Model Guidance and Ordinances on 2020 Comprehensive Alcohol Legislation

[https://www.gacities.com/GeorgiaCitiesSite/media/PDF/COVID-19/Model-Guidance-for-HB-879-the-Alcohol-Permitting-Bill-with-two-model-ordinances-\(002\).pdf](https://www.gacities.com/GeorgiaCitiesSite/media/PDF/COVID-19/Model-Guidance-for-HB-879-the-Alcohol-Permitting-Bill-with-two-model-ordinances-(002).pdf)

For tax guidance:

Alcohol and Tobacco Division of the Georgia Department of Revenue
1800 Century Center Boulevard, N.E. Atlanta, Georgia
Room 4235
Atlanta, Georgia 30345
Phone: 404-417-4900
E-mail: atdiv@dor.ga.gov
Website: <https://dor.georgia.gov/alcohol-tobacco>

For mandatory reporting of licensees providing alcohol to the under-aged:

Alcohol and Tobacco Division of the Georgia Department of Revenue
1800 Century Center Boulevard, N.E. Atlanta, Georgia
Room 4235
Atlanta, Georgia 30345
Phone: 404-417-4900

For federal regulatory and interstate criminal law guidance:

Bureau of Alcohol, Tobacco, Firearms and Explosives
Office of Public and Governmental Affairs
99 New York Avenue, N.E., Room 5S 144
Washington, D.C. 20226 USA
Phone: (800) 800-3855
Website: <http://www.atf.gov>
E-mail: ATFTips@atf.gov

To see other Georgia city alcohol codes:

Municipal Code Corporation
Website: <http://municode.com/Library/ClientListing.aspx?stateID=10>

For statutory language:

Official Code of Georgia Annotated Title 3
Website: <http://www.lexisnexis.com/hottopics/gacode/Default.asp>

For statutory interpretive guidance:

Opinions of the Attorney General of Georgia
Website: http://law.ga.gov/00/channel_title/0,2094,87670814_87670957,00.html