

House Bill 137

By: Representatives Willard of the 51st, Golick of the 40th, and Rice of the 95th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 6 of Title 3 of the Official Code of Georgia Annotated,
2 relating to state license requirements and regulations for distribution and sale of wine, so as
3 to provide for the sale and delivery or shipment of gift baskets containing wine; to provide
4 for a definition; to provide for the issuance of gift basket retail licenses; to provide for an
5 occupational license tax for each place of business; to provide for rules and regulations to be
6 adopted by the state revenue commissioner governing the delivery and shipment of gift
7 baskets containing wine and gift basket retail licenses; to provide for revocation of the gift
8 basket retail license under certain conditions; to provide for related matters; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 2 of Chapter 6 of Title 3 of the Official Code of Georgia Annotated, relating to state
13 license requirements and regulations for distribution and sale of wine, is amended by adding
14 a new Code section to read as follows:

15 "3-6-33.

16 (a) As used in this Code section, the term 'gift basket retailer' means a person who has
17 been issued a gift basket retail license as provided for in subsection (b) of this Code
18 section.

19 (b) The commissioner may issue a gift basket retail license for the retail sale of wine
20 included in a gift basket sold at retail. An application for the gift basket retail license along
21 with the payment of an annual occupational license tax in the amount of \$50.00 for each
22 place of business shall be submitted to the department immediately upon assuming control
23 of the place of business and annually thereafter as long as the business is operated.

24 (c) The gift basket retail license shall entitle the gift basket retailer to sell and to deliver
25 or ship gift baskets directly to consumers, provided that:

26 (1) Each gift basket shall only contain a maximum of two liters of wine and the
27 following:

28 (A) Perishable food items;

29 (B) Nonalcoholic beverages; or

30 (C) Flowers or plants.

31 The retail value of the items in subparagraphs (A) through (C) of this paragraph shall
32 meet or exceed the retail value of the wine included in the gift basket;

33 (2) The wine sold by the gift basket retailer shall only be purchased from a retailer
34 licensed for the sale of wine pursuant to this chapter or from a farm winery licensed
35 pursuant to Code Section 3-6-21.1. Such wine shall not be consumed on the premises of
36 the gift basket retailer;

37 (3) Before accepting an order from a consumer in this state, the gift basket retailer shall
38 require that the person placing the order state affirmatively that he or she is 21 years of
39 age or older and shall verify the age of such person placing the order either by the
40 physical examination of an approved government issued form of identification or by
41 utilizing an Internet based age and identification service;

42 (4) The gift basket is delivered or shipped only to a residential address;

43 (5) Every gift basket that is delivered or shipped shall be clearly marked 'CONTAINS
44 ALCOHOL - SIGNATURE OF A PERSON AGE 21 OR OLDER REQUIRED FOR
45 DELIVERY,' and the carrier delivering such gift basket shall be responsible for obtaining
46 the signature of a person at the residential address who is at least 21 years of age as a
47 condition of delivery;

48 (6) A gift basket retailer shall not deliver or ship more than two gift baskets to any one
49 person or residential address per calendar year; and

50 (7) All sales of gift baskets shall be in accordance with all applicable laws of the
51 jurisdiction in which the gift basket retailer is located, and the delivery or shipment of
52 the gift basket shall be in accordance with all applicable laws of the jurisdiction in which
53 the residence to which the delivery or shipment is made is located.

54 (d) The commissioner shall adopt rules and regulations governing gift basket retail licenses
55 and the delivery and shipment of gift baskets.

56 (e) The failure to comply strictly with the requirements of this Code section, Code
57 Section 3-3-23, and all applicable provisions of this title and regulations promulgated
58 pursuant to this title shall be grounds for revocation of a gift basket retail license or other
59 disciplinary action by the commissioner. No person who has a gift basket retail license
60 revoked for delivery or shipment of wine to a person not 21 years of age shall be issued
61 any gift basket retail license for a period of five years from the date of such revocation."

62

SECTION 3.

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