

Chapter 3

ALCOHOLIC BEVERAGES*

Sections:

3-130A	ARTICLE IV. EXCISE TAX
3-130D	DIVISION 1. GENERALLY
3-131	3-131--3-155. Reserved.
3-155D	DIVISION 2. MALT BEVERAGES
3-156	Levied on wholesale dealers.
3-157	Monthly reports; payments.
3-158	Additional to other taxes or license fees.
3-159	Penalty and accrued interest on late reports and delinquent payments; city clerk to issue execution.
3-160	False reports or nonpayment declared grounds for revocation of licenses of wholesale dealers of malt beverages.
3-161	Sale of malt beverages upon which tax was not paid prohibited; penalties.
3-162	3-162--3-180. Reserved.
3-180D	DIVISION 3. WINE AND SPIRITUOUS LIQUORS
3-181	Levied on retail dealers.
3-182	Collection, custody of taxes.
3-183	Additional to other taxes or license fees.
3-184	Invoices required to be kept as records by wholesaler and retailer.
3-185	Monthly reports; payments.
3-186	Penalty and accrued interest on late reports and delinquent payments; city clerk to issue execution.
3-187	Noncompliance, false reports, or nonpayment declared grounds for revocation of licenses of wholesale dealers.
3-188	Sale of wine or spirituous liquors upon which tax was not paid prohibited; penalties.
3-189	3-189--3-205. Reserved.
3-205D	DIVISION 4. MIXED DRINKS
3-206	Definitions.
3-207	Imposition, rate, remittance of tax.
3-208	Persons liable for tax.
3-209	Deduction from payment of tax due.
3-210	Failure to pay tax.
3-211	Retention of records.

*Cross reference--Public drunkenness, § 11-14.

State law references--Use of proceeds of alcoholic beverage tax for prevention, education and treatment, Ga. Const. art. 3, sec. 9, par. 6; Georgia Alcoholic Beverage Code, O.C.G.A. § 3-1-1 et seq.; public drunkenness, O.C.G.A. § 16-11-41; furnishing alcoholic beverages to persons under twenty-one years of age, jurisdiction of municipal courts, O.C.G.A. § 36-32-10; driving under the influence of alcohol or drugs, O.C.G.A. § 40-6-391.

Section 3-130A ARTICLE IV. EXCISE TAX

Section 3-130D DIVISION 1. GENERALLY

Section 3-131 3-131--3-155. Reserved.

Section 3-155D DIVISION 2. MALT BEVERAGES

Section 3-156 Levied on wholesale dealers.

(a) Except as provided in subsection (b), there is hereby levied and imposed upon all wholesale dealers selling malt beverages within the city a specific excise tax computed on the basis of .4166 cent (\$0.004166) per ounce or metric equivalent of malt beverages sold by each wholesale dealer within the corporate limits of the city.

(b) All malt beverages sold in or from a barrel or bulk container and being commonly known as tap or draft beer shall not be subject to the excise tax provided for in subsection (a), but in lieu thereof there is hereby levied and imposed upon each wholesale dealer selling such malt beverages within the corporate limits of the city an excise tax of six dollars (\$6.00) for each barrel or bulk container having a capacity of fifteen and one-half (15 1/2) gallons or metric equivalent sold by such wholesale dealer within the city, and at a like rate for fractional parts thereof.

Section 3-157 Monthly reports; payments.

Each wholesale dealer selling malt beverages within the city shall file a report with the city clerk by the fifteenth day of each month showing for the preceding calendar month the exact quantities of malt beverages, by size and type of container, sold by him within the city. Each such wholesale dealer shall remit to the city, not later than the fifteenth day of the month next succeeding the calendar month in which such sales were made, the amount of excise tax due in accordance with section 3-156.

Section 3-158 Additional to other taxes or license fees.

The excise tax provided for in this division shall be in addition to any license fee, tax or charge which may now or in the future be imposed upon the business of selling malt beverages at wholesale within the corporate limits of the city.

Section 3-159 Penalty and accrued interest on late reports and delinquent payments; city clerk to issue execution.

The failure to make a timely report and remittance shall render a wholesale dealer liable for a penalty equal to ten (10) percent of the total amount due, plus interest accrued at the rate of twelve (12) percent per annum. The clerk of the city shall issue an execution against such wholesale dealer, firm, or corporation so delinquent on his or its property for the amount of the excise tax due and delinquent, plus penalty and interest accrued, and shall proceed to collect such amount in the same manner as is done in the case of executions issued for collection of city ad valorem property taxes.

Section 3-160 False reports or nonpayment declared grounds for revocation of licenses of wholesale dealers of malt beverages.

At any time it is found that false and fraudulent reports have been made by the wholesale dealer, his agents, officers, or employees, and upon which payment of malt beverages excise tax was reported or paid to the city, and at any time the monthly report and payment called for in

section 3-157 is past due over thirty (30) days, the wholesale licensee shall be given not less than three (3) days' nor more than ten (10) days' notice of a hearing before the city council to show cause why his license to sell malt beverages in the city should not be suspended or revoked because of such false and fraudulent reports or nonpayment of taxes past due more than thirty (30) days

Section 3-161 Sale of malt beverages upon which tax was not paid prohibited; penalties.

It shall be a violation of this Code for any person to sell at retail or otherwise within the city any malt beverage on which the tax as above set out has not been paid to the wholesaler for the city as above provided. In addition to the penalties provided for in section 1-6, the violation of this division shall be deemed a sufficient ground for the revocation of the license of any retail or wholesale dealer holding a license or permit to sell malt beverages within the city.
(Code 1958, § 5-66)

Section 3-162 3-162--3-180. Reserved.

Section 3-180D DIVISION 3. WINE AND SPIRITUOUS LIQUORS

Section 3-181 Levied on retail dealers.

There is hereby levied and imposed upon all retail dealers selling wine or spirituous liquors within the city a specific excise tax computed on the basis of eighty cents (\$.80) per gallon or metric equivalent of wine or spirituous liquors sold by each retail dealer within the corporate limits of the city.

Section 3-182 Collection, custody of taxes.

At any time of delivery of wine or spirituous liquors to any retail dealer, the wholesaler shall collect from the retail dealer the excise taxes imposed in section 3-181 and hold such taxes in trust for the city until said tax is remitted to the city as provided in this division.

Section 3-183 Additional to other taxes or license fees.

The excise tax provided for in this division shall be in addition to any license fee, tax or charge which may now or in the future be imposed upon the business of selling at retail wine or spirituous liquors

Section 3-184 Invoices required to be kept as records by wholesaler and retailer.

Upon each and every delivery by a licensed wholesaler to a licensed retailer, an invoice in duplicate shall be prepared showing the number and size of each container of wine and spirituous liquors delivered, together with the price therefor and the excise taxes due and collected thereon. The original of such invoice shall be delivered by the wholesaler to the retailer simultaneously with such delivery, and the second copy of such invoice shall be retained by the wholesaler. Each retailer or wholesaler shall keep such invoices or copies for a period of twelve (12) months after the date of delivery and, during such twelve-month period, such invoices shall be made available for inspection by representative of the city.

Section 3-185 Monthly reports; payments.

Each wholesale dealer selling wines or spirituous liquors within the city shall file a report with the city clerk by the fifteenth day of each month which shall correctly show the name of each retail dealer to whom a delivery was made during the preceding calendar month, the

quantities of wine and spirituous liquors delivered to each dealer, the amount of excise tax collected under the terms of section 3-182, and such other reasonable information as may be required by the city. The report shall be accompanied by remittance made payable to the city for all taxes collected or due, as shown on such report.

Section 3-186 Penalty and accrued interest on late reports and delinquent payments; city clerk to issue execution.

The failure to make a timely report and remittance shall render a wholesale dealer liable for a penalty equal to ten (10) percent of the total amount due, plus interest accrued at the rate of twelve (12) percent per annum. The clerk of the city shall issue an execution against such wholesale dealer, firm, or corporation so delinquent on his or its property for the amount of the excise tax due and delinquent, plus penalty and interest accrued, and shall proceed to collect such amount in the same manner as is done in the case of executions issued for collection of city ad valorem property taxes.

Section 3-187 Noncompliance, false reports, or nonpayment declared grounds for revocation of licenses of wholesale dealers.

At any time it is found that a wholesale dealer has not complied with the terms imposed in this article, or that a wholesale dealer has made a false and fraudulent report to the city upon which excise taxes were reported or paid to the city, or at any time the monthly report and payment called for in section 3-185 is past due over thirty (30) days, the wholesale licensee shall be given not less than three (3) days' nor more than ten (10) days' notice of a hearing before the city council to show cause why his license to sell wine or spirituous liquors in the city should not be suspended or revoked because of such noncompliance, or false and fraudulent reports, or nonpayment of taxes past due more than thirty (30) days.

Section 3-188 Sale of wine or spirituous liquors upon which tax was not paid prohibited; penalties.

It shall be a violation of this Code for any person to sell at retail or otherwise within the city any wine or spirituous liquors on which the tax as above set out has not been paid to the wholesaler for the city as above provided. In addition to the penalties provided for in section 1-6, the violation of this article shall be deemed a sufficient ground for the revocation of the license of any retail or wholesale dealer holding a license or permit to sell wine or spirituous liquors within the city.

(Code 1958, § 5-74)

Section 3-189 3-189--3-205. Reserved.

Section 3-205D DIVISION 4. MIXED DRINKS

Section 3-206 Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Mixed drinks means alcoholic beverages served for consumption on the premises which may or may not be diluted by any other liquid.

Person means an individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, the plural as well as the singular number, excepting the United

States of America, the State of Georgia, and any political subdivision of either thereof upon which the city is without power to impose the tax herein provided for consumption on the premises.

Purchaser means any person who orders and gives present or future consideration for any alcoholic beverage by the drink.

Licensee means a person who holds a liquor pouring license from the city to sell alcoholic beverages by the drink.

Section 3-207 Imposition, rate, remittance of tax.

There is hereby levied and imposed, in addition to all other excise taxes now imposed by law, a tax on the retail purchase of distilled spirits or alcoholic beverages for beverage purpose by the drink, including fortified wine, excluding the sales of fermented beverages made whole or in part from malt, or any similar fermented beverage, to be collected at the rate and in the manner set forth in this division.

- (1) Every purchaser of distilled spirits or alcoholic beverages for beverage purposes by the drink at retail in the city shall be liable for a tax thereon at the rate of three (3) percent of the sale price or charge for such beverages. Such tax shall be paid by the purchaser to the licensee, as defined in this division, making such sales, as hereafter provided, and such licensee shall remit such tax to the city clerk on or before the twentieth day of the succeeding month, to be delinquent if remitted thereafter, with a summary of the licensee's gross sales derived from the sale of distilled spirits or alcoholic beverages for beverage purposes by the drink and the amount of taxes collected by him from his purchasers, on such form as may be required by the city clerk. When received by the city clerk it shall be a credit against the tax imposed hereunder on such licensee. Every licensee, as defined in this division, making a sale of such beverages shall be liable for a tax thereon at the rate of three (3) percent of such gross sales or gross sales derived from the sale of distilled spirits or alcoholic beverages for beverage purposes by the drink or the amount of taxes collected by him from his purchaser or purchasers, as provided in this division, whichever is greater.
- (2) Gross sales shall include all credit sales to the extent permitted by the laws of the state and shall be reported and the taxes collected thereon remitted to the city clerk to the same extent as required of cash sales. The fact that the licensee may receive payment from such credit sale or sales in a later reporting period shall not relieve or excuse the licensee's responsibility for collecting and remitting the taxes as provided in this division.
- (3) The tax so levied is and shall be in addition to all other taxes, whether levied in the form of excise, license or privilege taxes, and shall be in addition to all other fees and taxes levied.

Section 3-208 Persons liable for tax.

(a) The taxes imposed by this division are upon the purchaser and shall be collected by the licensee from the purchaser. Therefore, the licensee shall collect the tax imposed by this division from the purchaser and shall pay such taxes over to the city as provided in this division.

(b) The licensee shall, as far as practicable, add the amount of the tax imposed to the sales price or charge, which shall be a debt from the purchaser to the licensee, until paid, and shall be recoverable at law in the same manner as other debts. Any licensee who shall neglect, fail, or refuse to collect the tax upon any, every and all retail sales made by him, or his agents, or employees, of alcoholic beverages, as defined in this division, which are subject to the tax imposed by this division, shall be liable for and pay the tax himself.

(c) A licensee shall not advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the purchaser of the

payment of all or any of the tax.

(d) If any licensee liable for any tax levied shall sell out his business or stock of goods, or shall quit the business, he shall make a final return and payment within fifteen (15) days after the date of selling or quitting the business.

Section 3-209 Deduction from payment of tax due.

In reporting and paying the amount of tax due under this division, each licensee shall be allowed a deduction equal to that rate authorized for deductions from state tax under O.C.G.A., Title 48, chapter 8; provided that the tax due is not delinquent at time of payment.

Section 3-210 Failure to pay tax.

(a) The tax imposed by this division shall for each month become delinquent on the twenty-first day of each succeeding month. The city clerk is empowered and it shall be his duty when any tax becomes delinquent under this division to pursue any remedy or right allowed by law for the enforcement of the collection and payment of taxes lawfully levied by the city as may be allowed under the laws of the state and this Code.

(b) Any default or delinquency of the tax levied by this division shall constitute cause for suspension or revocation of alcoholic beverage licenses.

(c) No license shall be issued by the governing authority to any applicant who at the time of application is in default or is delinquent in any amount as to any tax imposed by this division.

(d) When the governing authority determines that a licensee has been chronically delinquent or chronically in default under this division, the governing authority when acting upon the application of such licensee for renewal of his license, may in the exercise of its discretion deny such application upon the grounds of such chronic delinquency.

(e) Any licensee who fails to pay the tax imposed by this division to the city, or fails to pay any amount of such tax required to be collected and paid to the city, within the time required, shall pay a penalty of ten (10) percent of the tax or amount of the tax, in addition to the tax or amount of the tax, plus interest on the unpaid tax or any portion thereof at a rate of one (1) percent per month from the twentieth day of the month following the monthly period, for which the amount or any portion thereof should have been returned, until date of payment.

Section 3-211 Retention of records.

It shall be the duty of every licensee required to make a report and pay any tax levied by this division to keep and preserve suitable records of the sales taxable by this division, such other books of account as may be necessary to determine the amount of tax due, and any other information as may be required by the city clerk; and it shall be the duty of every such licensee, moreover, to keep and preserve, for a period of three (3) years, all invoices and other records of such alcoholic beverages which are taxable by this division, and the sales of such alcoholic beverages. All such books, invoices, and other records shall be open to examination by the city clerk or his duly authorized agents at all reasonable hours.

Section 3-186 Penalty and accrued interest on late reports and delinquent payments; city clerk to issue execution.

The failure to make a timely report and remittance shall render a wholesale dealer liable for a penalty equal to ten (10) percent of the total amount due, plus interest accrued at the rate of twelve (12) percent per annum. The clerk of the city shall issue an execution against such wholesale dealer, firm, or corporation so delinquent on his or its property for the amount of the excise tax due and delinquent, plus penalty and interest accrued, and shall proceed to collect such amount in the same manner as is done in the case of executions issued for collection of city ad

valorem property taxes.

Section 3-187 Noncompliance, false reports, or nonpayment declared grounds for revocation of licenses of wholesale dealers.

At any time it is found that a wholesale dealer has not complied with the terms imposed in this article, or that a wholesale dealer has made a false and fraudulent report to the city upon which excise taxes were reported or paid to the city, or at any time the monthly report and payment called for in section 3-185 is past due over thirty (30) days, the wholesale licensee shall be given not less than three (3) days' nor more than ten (10) days' notice of a hearing before the city council to show cause why his license to sell wine or spirituous liquors in the city should not be suspended or revoked because of such noncompliance, or false and fraudulent reports, or nonpayment of taxes past due more than thirty (30) days.

Section 3-188 Sale of wine or spirituous liquors upon which tax was not paid prohibited; penalties.

It shall be a violation of this Code for any person to sell at retail or otherwise within the city any wine or spirituous liquors on which the tax as above set out has not been paid to the wholesaler for the city as above provided. In addition to the penalties provided for in section 1-6, the violation of this article shall be deemed a sufficient ground for the revocation of the license of any retail or wholesale dealer holding a license or permit to sell wine or spirituous liquors within the city.

Section 3-189 3-189--3-205. Reserved.

Section 3-205D DIVISION 4. MIXED DRINKS

Section 3-206 Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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Person means an individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, the plural as well as the singular number, excepting the United States of America, the State of Georgia, and any political subdivision of either thereof upon which the city is without power to impose the tax herein provided for consumption on the premises.

Purchaser means any person who orders and gives present or future consideration for any alcoholic beverage by the drink.

Licensee means a person who holds a liquor pouring license from the city to sell alcoholic beverages by the drink.

Section 3-207 Imposition, rate, remittance of tax.

There is hereby levied and imposed, in addition to all other excise taxes now imposed by law, a tax on the retail purchase of distilled spirits or alcoholic beverages for beverage purpose by the drink, including fortified wine, excluding the sales of fermented beverages made whole or in part from malt, or any similar fermented beverage, to be collected at the rate and in the manner set forth in this division.

(1) Every purchaser of distilled spirits or alcoholic beverages for beverage purposes by the

drink at retail in the city shall be liable for a tax thereon at the rate of three (3) percent of the sale price or charge for such beverages. Such tax shall be paid by the purchaser to the licensee, as defined in this division, making such sales, as hereafter provided, and such licensee shall remit such tax to the city clerk on or before the twentieth day of the succeeding month, to be delinquent if remitted thereafter, with a summary of the licensee's gross sales derived from the sale of distilled spirits or alcoholic beverages for beverage purposes by the drink and the amount of taxes collected by him from his purchasers, on such form as may be required by the city clerk. When received by the city clerk it shall be a credit against the tax imposed hereunder on such licensee. Every licensee, as defined in this division, making a sale of such beverages shall be liable for a tax thereon at the rate of three (3) percent of such gross sales or gross sales derived from the sale of distilled spirits or alcoholic beverages for beverage purposes by the drink or the amount of taxes collected by him from his purchaser or purchasers, as provided in this division, whichever is greater.

- (2) Gross sales shall include all credit sales to the extent permitted by the laws of the state and shall be reported and the taxes collected thereon remitted to the city clerk to the same extent as required of cash sales. The fact that the licensee may receive payment from such credit sale or sales in a later reporting period shall not relieve or excuse the licensee's responsibility for collecting and remitting the taxes as provided in this division.
- (3) The tax so levied is and shall be in addition to all other taxes, whether levied in the form of excise, license or privilege taxes, and shall be in addition to all other fees and taxes levied.

Section 3-208 Persons liable for tax.

(a) The taxes imposed by this division are upon the purchaser and shall be collected by the licensee from the purchaser. Therefore, the licensee shall collect the tax imposed by this division from the purchaser and shall pay such taxes over to the city as provided in this division.

(b) The licensee shall, as far as practicable, add the amount of the tax imposed to the sales price or charge, which shall be a debt from the purchaser to the licensee, until paid, and shall be recoverable at law in the same manner as other debts. Any licensee who shall neglect, fail, or refuse to collect the tax upon any, every and all retail sales made by him, or his agents, or employees, of alcoholic beverages, as defined in this division, which are subject to the tax imposed by this division, shall be liable for and pay the tax himself.

(c) A licensee shall not advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the purchaser of the payment of all or any of the tax.

(d) If any licensee liable for any tax levied shall sell out his business or stock of goods, or shall quit the business, he shall make a final return and payment within fifteen (15) days after the date of selling or quitting the business.

Section 3-209 Deduction from payment of tax due.

In reporting and paying the amount of tax due under this division, each licensee shall be allowed a deduction equal to that rate authorized for deductions from state tax under O.C.G.A., Title 48, chapter 8; provided that the tax due is not delinquent at time of payment.

Section 3-210 Failure to pay tax.

(a) The tax imposed by this division shall for each month become delinquent on the twenty-first day of each succeeding month. The city clerk is empowered and it shall be his duty when any tax becomes delinquent under this division to pursue any remedy or right allowed by law for the enforcement of the collection and payment of taxes lawfully levied by the city as may be allowed

under the laws of the state and this Code.

(b) Any default or delinquency of the tax levied by this division shall constitute cause for suspension or revocation of alcoholic beverage licenses.

(c) No license shall be issued by the governing authority to any applicant who at the time of application is in default or is delinquent in any amount as to any tax imposed by this division.

(d) When the governing authority determines that a licensee has been chronically delinquent or chronically in default under this division, the governing authority when acting upon the application of such licensee for renewal of his license, may in the exercise of its discretion deny such application upon the grounds of such chronic delinquency.

(e) Any licensee who fails to pay the tax imposed by this division to the city, or fails to pay any amount of such tax required to be collected and paid to the city, within the time required, shall pay a penalty of ten (10) percent of the tax or amount of the tax, in addition to the tax or amount of the tax, plus interest on the unpaid tax or any portion thereof at a rate of one (1) percent per month from the twentieth day of the month following the monthly period, for which the amount or any portion thereof should have been returned, until date of payment.

Section 3-211 Retention of records.

It shall be the duty of every licensee required to make a report and pay any tax levied by this division to keep and preserve suitable records of the sales taxable by this division, such other books of account as may be necessary to determine the amount of tax due, and any other information as may be required by the city clerk; and it shall be the duty of every such licensee, moreover, to keep and preserve, for a period of three (3) years, all invoices and other records of such alcoholic beverages which are taxable by this division, and the sales of such alcoholic beverages. All such books, invoices, and other records shall be open to examination by the city clerk or his duly authorized agents at all reasonable hours.