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Alcoholic Beverages SB 10

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Alcoholic Beverages

Regulation of Alcoholic Beverages Generally: Amend Section 7 of Part 1 of Article 1 of Chapter 3 of Title 3 of the Official Code of Georgia Annotated, Relating to the Local Authorization and Regulation of Sales of Alcoholic Beverages on Sunday, so as to Provide that in each County or Municipality in which Package Sales of Only Malt Beverages and Wine by Retailers is Lawful, the Governing Authority of the County or Municipality, as Appropriate, may Authorize Package Sales by a Retailer of Malt Beverages and Wine on Sundays from 12:30 P.M. until 11:30 P.M., if Approved by Referendum; Provide that in each County or Municipality in which Package Sales of Malt Beverages, Wine, and Distilled Spirits by Retailers are all Lawful, the Governing Authority of the County or Municipality, as Appropriate, may Authorize Package Sales by a Retailer of Malt Beverages, Wine, and Distilled Spirits on Sundays from 12:30 P.M. until 11:30 P.M., if Approved by Referendum; Provide Procedures; Provide for Applicability; Provide for Related Matters; Repeal Conflicting Laws; and for Other Purposes.

CODE SECTIONS:	O.C.G.A. § 3-3-7 (amended)
BILL NUMBER:	SB 10
ACT NUMBER:	48
GEORGIA LAWS:	2011 Ga. Laws 49
SUMMARY:	The Act authorizes counties and municipalities to allow the sale of alcoholic beverages on Sundays from 12:30 P.M. until 11:30 P.M., if it is approved by a referendum vote. The Act only permits the sale of alcoholic beverages which are lawfully allowed to be sold in the county or municipality. If a county or municipality does not allow the sale of distilled spirits, it may not use this Act to allow for the sale of distilled spirits on Sundays.
EFFECTIVE DATE:	July 1, 2011

History

With the passage of this Act, Georgia became the fifteenth state since 2002 to lift the ban on Sunday alcohol sales.[1] Many exceptions have been created to these alcohol "blue laws" in Georgia, allowing for the Sunday sale of alcohol on military bases, most wine-tasting rooms, and in restaurants.[2] A blue law is a type of law designed to enforce religious standards through a ban on Sunday activities.[3] The U.S. Supreme Court has upheld the constitutionality of many blue laws as furthering secular, rather than religious, views.[4]

Following the repeal of Prohibition with the Twenty-First Amendment in 1933, many states passed laws banning the sale of alcohol on Sundays. Georgia's ban, now codified at Georgia Code section 3-3-20, was passed in 1937.[5] In 2002, the state passed Code section 3-3-7, which gave local governments the option of exempting certain businesses and venues from the ban, including "eating establishments."[6] The Georgia Supreme Court upheld this statute against an equal protection challenge, allowing for only a certain class of establishments to be exempted from the Sunday sales ban.[7] The court found a rational basis connection in exempting eating establishments because the legislation was intended to enhance the recreational atmosphere of Sunday and the legislature could conclude that the "health and safety risks posed by bars are more significant than those posed by restaurants."[8]

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1. Ben Terris, *Chucking the Sunday Blues*, NAT'L J., May 3, 2011, *available at* http://www.nationaljournal.com/daily/chucking-the-sunday-blues-20110501. Georgia, Indiana, and Connecticut were the only three states in the nation with such a ban. James Salzer, *Sunday Sales Bill Breezes Past Panel: Opponents Plan to Fight Alcohol Rules Locally*, ATLANTA J.-CONST., Feb. 3, 2011, at A1, *available at* 2011 WLNR 2136510 [hereinafter Salzer, *Bill Breezes*].

2. Michael Stewart & John A. Sugg, Note, *Alcoholic Beverages*, 24 GA. ST. U. L. REV. 1, 7 (2007).

3. Susane B. Berger, *The Less We Emphasize the Christian Religion, the Further We Fall into the Abyss of Poor Character and Chaos*, 22 T. MARSHALL L. REV. 233, 233 (1997).

4. McGowan v. Maryland, 366 U.S. 420, 444 (1961) ("[A]s presently written and administered, most [Sunday closing laws], at least, are of a secular rather than of a religious character, and that presently they bear no relationship to establishment of religion as those words are used in the Constitution of the United States.").

5. O.C.G.A. § 3-3-20 (2010) (formerly Code 1933 § 58-813).

6. 2002 Ga. Laws 1473, § 1; O.C.G.A. § 3-3-7(b)(2) (2003).

7. State v. Heretic, 588 S.E.2d 224, 225–26, 277 Ga. 275, 277–78 (2003).

8. *Id.*

During Governor Sonny Perdue's administration, the former Governor made it known publicly that he would veto any Sunday sales bill that came across his desk. For example, in January 2007, Governor Perdue stated that "I don't support [the Sunday sales bill]. I don't know whether it will pass the Legislature or not, but it will have a pretty tough time getting the last vote."[9] The "last vote" was his. Governor Perdue, a religious conservative who does not drink, declined to elaborate on exactly why he did not support the legislation, but the vocal opposition by the Georgia Christian Coalition and other religious conservatives lobbying against the passage was a likely source.[10]

The 2007 version of the bill was sponsored by Senator Seth Harp (R-29th). He noted his surprise to the religious opposition of the bill, stating that "[p]eople came up to [him] in church and told [him] it was a good idea."[11] A 2007 Atlanta Journal-Constitution poll showed sixty-eight percent of respondents statewide supported the bill.[12]

However, knowing the requisite executive support for the bill was not available, the sponsors decided to wait until Governor Perdue was out of office before seriously reconsidering the bill.[13] SB 10 was introduced on January 25, 2011, shortly after Governor Nathan Deal took over the governor's office from Sonny Perdue, and had broad support in the Senate. In addition to constituent support for the Sunday sales bill, the convenience and grocery store associations lobbied extensively for the passage of the bill, which would help increase their revenues.[14] The National Federation of Independent Business, Georgia Chamber of Commerce, Americans for Tax

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9. James Salzer, *Perdue Hints Veto of Sunday Booze Sales,* ATLANTA J.-CONST., Jan. 18, 2007, at A1, *available at* 2007 WLNR 977700.

10. *Id.* Governor Perdue's rationalization of opposition to the bill in 2007 was time management: "'Think of it this way,' the [G]overnor added in the radio interview. 'It really helps you plan ahead for the rest of your life—buying on Saturday, rather than Sunday. Time management.'" *Id.*

11. *Id.*

12. *Id.*

13. Interview with Rep. Roger Williams (R-4th) (Mar. 30, 2011) [hereinafter Williams Interview] (on file with the Georgia State University Law Review) (saying the Georgia Assembly "waited patiently" because Governor Perdue would veto the bill).

14. James Salzer, *Alcohol Bill Down, Not Out; With Session Half Over, Lobbying for, Against Measures is Heating Up. Grocery Stores, Christian Right Push Lawmakers*, ATLANTA J.-CONST., Feb. 27, 2011, at B1, *available at* 2011 WLNR 3851009.

Reform, and Citizens Against Government Waste each supported and lobbied for the legislation.[15]

Critics argued the bill would lead to increased alcohol-related deaths, namely through drunk driving.[16] However, Mothers Against Drunk Driving did not oppose the bill,[17] and the Georgia Christian Coalition's (the Coalition) opposition to SB 10 in the House was not as extensive as it was in 2007.[18] Representative Roger Williams(R-4th) thought this fact played a role in the eventual passage of the bill.[19] He felt that once the Coalition realized the bill would pass, the Coalition decided to fight the bill at the local level rather than in the Georgia Assembly.[20]

In delaying the reintroduction of the Sunday sales bill until 2011, supporters of the bill also considered Senate approval. Representative Williams stated that Senate support had not been available in years past, so the former Speaker of the House Glenn Richardson felt it was not worth the effort to pass a bill which would not pass both chambers.[21]

Bill Tracking of SB 10

Consideration and Passage by the Senate

Senators John Bulloch (R-11th), Chip Rogers (R-21st), Don Balfour (R-9th), Doug Stoner (D-6th), Freddie Sims (D-12th), Johnny Grant (R-25th), and others sponsored SB 10.[22] The passage of SB 10 marked a five to ten year journey for the bill, with Governor Nathan Deal finally signing the bill into law on April 28, 2011.[23] The bill was read to the Senate for the first time on January 25, 2011, and

15. *Id.*; Interview with Sen. John Bulloch (R-11th) (Mar. 29, 2011) [hereinafter Bulloch Interview] (on file with the Georgia State University Law Review).
16. Video Recording of Senate Proceedings, Mar. 16, 2011 at 2 hr., 4 min., 30 sec. (remarks by Sen. Bill Cowsert (R-46th)), http://mediam1.gpb.org/ga/leg/2011/ga-leg-senate_031611_AM.wmv [hereinafter Senate Video].
17. Bulloch Interview, *supra* note 15.
18. *Id.*
19. Williams Interview, *supra* note 13.
20. *Id.*; *see also* Salzer, *Bill Breezes, supra* note 1.
21. Williams Interview, *supra* note 13.
22. SB 10, as introduced, 2011 Ga. Gen. Assem.
23. State of Georgia Final Composite Status Sheet, SB 10, May 24, 2011.

Lieutenant Governor Casey Cagle (R) assigned it to the Senate Committee on State and Local Governmental Operations (the Committee).[24] The bill became "log jammed" in the Committee, however, until Senator Bulloch was able to break this logjam and allow a floor vote.[25] The Committee favorably reported the bill on February 3, 2011. The Senate read the bill for the second time on February 7, 2011, and for a third time on March 16, 2011.[26]

A number of amendments were proposed for SB 10 when it was taken up by the full Senate, some of which were included simply to "kill the bill."[27] The first Senate floor amendment, proposed by Senator Bulloch, sought to clarify that local governments could allow alcohol to be sold *during* the hours of 12:30 p.m. and 11:30 p.m., rather than a requirement to sell it *from* 12:30 p.m. and 11:30 p.m.[28] This amendment was adopted without objection. The second Senate floor amendment, offered by Senator Judson Hill (R-32nd), sought to specify the date on which a referendum vote could be held pursuant to SB 10.[29] It was not adopted.[30] The third Senate floor amendment, proposed by Senator Barry Loudermilk (R-52nd), sought to give local voters the opportunity to vote up or down on all alcohol sales laws in the city or municipality.[31] Other senators voiced their concerns that this amendment would allow SB 10 to "supersede local control," as voters could change existing ordinances.[32] The amendment failed.[33]

The fourth Senate floor amendment, offered by Senator David Shafer (R-48th) and Senator Joshua McKoon (R-21st), sought to

24. *Id.*

25. Williams Interview, *supra* note 13.

26. State of Georgia Final Composite Status Sheet, SB 10, May 24, 2011.

27. *See* Bulloch Interview, *supra* note 15 (explaining that when an amendment is longer than one half the length of the original legislation, the bill must be re-submitted to the Rules Committee).

28. Senate Video, *supra* note 16, at 1 hr., 10 min., 5 sec. (remarks by Sen. John Bulloch (R-11th)); Senate Floor Amendment 1 to SB 10, introduced by Sen. Bulloch (R-11th), Mar. 16, 2011.

29. Senate Video, *supra* note 16, at 1 hr., 12 min., 15 sec. (remarks by Sen. Judson Hill (R-32nd)); Failed Senate Floor Amendment 2a to SB 10, introduced by Sen. Judson Hill (R-32nd), Mar. 16, 2011.

30. Georgia Senate Voting Record, SB 10 (Mar. 16, 2011) (24 Yeas – 29 Nays).

31. Senate Video, *supra* note 16, at 1 hr., 13 min., 42 sec. (remarks by Sen. Barry Loudermilk (R-52nd)); Failed Senate Floor Amendment 3 to SB 10, introduced by Sen. Barry Loudermilk (R-52nd), Mar. 16, 2011.

32. Senate Video, *supra* note 16, at 1 hr., 14 min., 10 sec. (remarks by Sen. Renee Unterman (R-45th)).

33. Georgia Senate Voting Record, SB 10 (Mar. 16, 2011) (12 Yeas – 41 Nays).

provide citizens with a process by which the prior election results could be nullified.[34] The amendment would give communities the ability to "cancel Sunday sales."[35]This amendment also failed.[36] Senator Shafer also proposed the fifth Senate floor amendment, along with Senators Hill and McKoon, which sought to "increase the penalties for retailers who sell [alcohol]" to under-aged individuals.[37] However, the amendment was deemed "not germane."[38] The sixth Senate floor amendment was proposed by Senator Hardie Davis (D-22nd) and sought to allow the sale of alcohol on Sunday between the hours of 2:00 p.m. and 11:30 p.m. instead of 12:30 p.m. and 11:30 p.m.[39] This amendment was proposed to allow for worship services to have ended before alcohol sales could begin.[40] Nonetheless, this amendment was not adopted.[41]

The bill, as amended on the Senate floor, passed the Senate on March 16, 2011, by a vote of 32–22.[42]

Consideration and Passage by the House

The bill was first read in the House on March 21, 2011, with the second reading the following day.[43] Speaker of the House David Ralston (R-7th) assigned the bill to the House Committee on Regulated Industries, which favorably reported it on March 22, 2011.[44] The House read the bill for a third time and voted on it on April 12, 2011.[45] The House passed the bill as introduced by a vote

34. Failed Senate Floor Amendment 4 to SB 10, introduced by Sen. David Shafer (R-48th), Mar. 16, 2011.
35. Senate Video, *supra* note 16, at 1 hr., 28 min., 39 sec. (remarks by Sen. David Shafer (R-48th)).
36. Georgia Senate Voting Record, SB 10 (Mar. 16, 2011) (13 Yeas – 41 Nays).
37. Senate Video, *supra* note 16, at 1 hr., 29 min., 15 sec. (remarks by Sen. David Shafer (R-48th)); Failed Senate Floor Amendment 5 to SB 10, introduced by Sen. David Shafer (R-48th), Mar. 16, 2011.
38. Failed Senate Floor Amendment 5 to SB 10, introduced by Sen. David Shafer (R-48th), Mar. 16, 2011.
39. Failed Senate Floor Amendment 6 to SB 10, introduced by Sen. Hardie Davis (D-22nd), Mar. 16, 2011.
40. Senate Video, *supra* note 16, at 2 hr., 36 min., 27 sec. (remarks by Sen. Hardie Davis (D-22nd)).
41. Georgia House of Representatives Voting Record, SB 10 (Apr. 12, 2011) (25 Yeas – 29 Nays).
42. Georgia Senate Voting Record, SB 10 (Mar. 16, 2011).
43. State of Georgia Final Composite Status Sheet, SB 10, May 24, 2011.
44. *Id.*
45. *Id.*

of 127 to 44.[46] Seven representatives did not vote and two were excused.[47]

The Act

The Act amends Title 3 of the Official Code of Georgia Annotated with the purpose of allowing local governments, by way of their local voters, to determine whether to allow for alcohol package sales on Sundays.[48] Section 1 of the Act amends Code section 3-3-7 by adding an exception to the general prohibition on Sunday sales of package alcohol if approved by local voters in a referendum.[49] Although the Act provides an exception to the general ban on Sunday sales, other restrictions and regulations regarding the sale of alcohol remain applicable.[50]

Section 1 also prescribes the referendum procedures necessary for a vote on Sunday sales.[51] If more than half of the county or municipality's voters approve the ordinance, the exception becomes effective on the date specified in the resolution or ordinance.[52] However, even if approved, only retailers licensed to sell alcohol by the package may engage in Sunday sales.[53]

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46. Georgia House of Representatives Voting Record, SB 10 (Apr. 12, 2011).
47. *Id.*
48. Senate Video, *supra* note 16, at 0 min., 30 sec. (remarks by Sen. John Bulloch (R-11th)).
49. O.C.G.A. § 3-3-7(p)(1), (q)(1) (Supp. 2011).
50. *See* O.C.G.A. § 3-3-7(p)(4) (Supp. 2011) ("The provisions of this subsection are in addition to or cumulative of and not in lieu of any other provisions of this title relative to the sale of malt beverages and wine by retailers."); O.C.G.A. § 3-3-7(q)(4) (Supp. 2011) ("The provisions of this subsection are in addition to or cumulative of and not in lieu of any other provisions of this title relative to the sale of alcoholic beverages by retailers.").
51. O.C.G.A. § 3-3-7(p)(2) (Supp. 2011). To authorize the Sunday sale of malt beverages and wine, the ballot question must ask voters, "Shall the governing authority of (name of county of municipality) be authorized to permit and regulate package sales by retailers of both malt beverages and wine on Sundays from 12:30 P.M. until 11:30 P.M.?" *Id*. To authorize the Sunday sale of malt beverages, wine and distilled spirits, the ballot question must ask, "Shall the governing authority of (name of county of municipality) be authorized to permit and regulate package sales by retailers of malt beverages, wine and distilled spirits on Sundays from 12:30 P.M. until 11:30 P.M.?" O.C.G.A. § 3-3-7(q)(2) (Supp. 2011).
52. O.C.G.A. § 3-3-7(p)(2), (q)(2) (Supp. 2011).
53. *See supra* note 50 and accompanying text.

Analysis

With the passage of this Act, Georgia joined the overwhelming majority of states allowing some form of package alcohol sales on Sundays.[54] Local governments may now authorize Sunday sales of package alcohol if approved by a majority of their voters in a referendum.[55] However, even though local governments now have this option, it is likely that many Georgia localities will continue the prohibition on Sunday alcohol sales.[56]

Constitutional Considerations

Initially, some Georgia legislators expressed concern over whether the General Assembly could enact legislation allowing local governments to authorize certain sales on Sunday as an exception to the general state prohibition on Sunday sales.[57] Senator Mitch Seabaugh (R-28th) argued that local referenda on alcohol sales might be unconstitutional because the state constitution gives the General Assembly the power to regulate alcohol.[58]

The Georgia Constitution provides, "The State of Georgia shall have full and complete authority to regulate alcoholic beverages and to regulate, restrict or prohibit activities involving alcoholic

54. *See supra* note 1.

55. O.C.G.A. § 3-3-7(p)(1–2), (q)(1–2) (Supp. 2011).

56. Local leaders could continue the ban on Sunday sales by refusing to hold a referendum vote. *See* O.C.G.A.§ 3-3-7(p)(2), (q)(2) (Supp. 2011) (providing "[a]ny governing authority *desiring* to permit and regulate [Sunday sales]" must use the referendum procedure) (emphasis added). Additionally, even if the issue were put on the ballot for a vote, it might not pass in some areas. Christopher Quinn, *GOP Leaders Split on Sunday Alcohol Sales*, ATLANTA J.-CONST., Feb. 16, 2011, at B2, *available at* http://www.ajc.com/news/georgia-politics-elections/republican-leaders-split-on-841588.html ("Polls have shown voters in rural areas are more likely to oppose Sunday alcohol sales."); Mitch Sneed, *Stores Say Sunday Alcohol Sales Will Help Their Business*, TIMES-GEORGIAN, Apr. 13, 2011, *available at* http://www.times-georgian.com/view/full_story/12779238/article-Stores-say-Sunday-alcohol-sales-will-help-their-business (although Governor Nathan Deal signed the bill, he said if the issue comes up for a vote in his community, he will vote against Sunday sales).

57. Senator Barry Loudermilk (R-52nd) and Representative Roger Williams (R-4th) sought an opinion from Georgia Attorney General Samuel S. Olens regarding the constitutionality of the bill. Letter from Samuel S. Olens, Attorney General, State of Georgia to Sen. Barry Loudermilk and Rep. Roger Williams (Mar. 2, 2011) [hereinafter Attorney General Letter] (on file with the Georgia State University Law Review). Ultimately, Attorney General Olens concluded the legislation appeared consistent with constitutional precedent. *Id.*

58. Quinn, *supra* note 56.

beverages."[59] However, the constitution delegates some of this regulatory authority to counties and municipalities while retaining the power of the State to enact general laws.[60] Thus, only those ordinances in "direct conflict" with state law are preempted.[61]

Despite the fact that Code section 3-3-20(a) serves as a general prohibition on Sunday alcohol sales,[62] the language of the constitutional provision does not appear to preclude the General Assembly from enacting legislation that allows for localities to decide whether to allow the sale of alcohol on Sundays.[63] In fact, prior to the Act, there were already certain exceptions for Sunday sales of alcoholic beverages "by the drink."[64]

The Georgia Court of Appeals upheld the validity of a "by the drink" exception in *Cheshire Bridge Entertainers, Inc. v. State*.[65] Further, in *State v. Heretic, Inc.*,[66] the Georgia Supreme Court rejected an equal protection challenge to the general statutory prohibition of Sunday alcohol sales, coupled with the exception allowing local governments to permit certain Sunday sales for consumption on the premises.[67]

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59. GA. CONST. art. III, § 6, para. 7. This regulatory authority includes "all such regulatory authority as is permitted to the states under the Twenty-First Amendment to the United States Constitution." *Id.*

60. "The regulatory authority of the state is specifically delegated to counties and municipalities of the state for the purpose of regulating, restricting, or prohibiting the exhibition of nudity, partial nudity, or depictions of nudity in connection with the sale or consumption of alcoholic beverages; and such delegated regulatory authority may be exercised by the adoption and enforcement of regulatory ordinances by the counties and municipalities of this state." GA. CONST. art. III, § 6, para. 7.

61. "A general law exercising such regulatory authority shall control over conflicting provisions of any local ordinance but shall not preempt any local ordinance provisions not in direct conflict with general law." GA. CONST. art. III, § 6, para. 7.

62. O.C.G.A. § 3-3-20(a) (2010). This section reflects Georgia's long-standing prohibition on the sale of alcohol on Sundays. *See* Karwisch v. Mayor of Atlanta, 44 Ga. 204, 207 (1871) (noting state law forbids the opening of businesses where liquor is sold on Sunday).

63. Attorney General Letter, *supra* note 57.

64. O.C.G.A. § 3-3-20(d) (2010) (providing a limited exception to the general ban on Sunday alcohol sales by permitting "by the drink" sales at certain specifically defined festivals meeting certain requirements); O.C.G.A. § 3-3-7(a) (2010) (providing numerous exceptions under which local governments may authorize certain Sunday sales of alcoholic beverages "by the drink").

65. Cheshire Bridge Enters., Inc. v. State, 221 Ga. App. 426, 426, 472 S.E.2d 6, 7 (Ct. App.1996) (stating the City of Atlanta is "authorized to allow" certain Sunday sales).

66. State v. Heretic, Inc., 277 Ga. 275, 276, 588 S.E.2d 224, 226 (2003).

67. The Georgia Supreme Court has also upheld several local regulations concerning alcoholic beverages under a "police powers" analysis. Consol. Gov't. of Columbus v. Barkwick, 274 Ga. 176, 549 S.E.2d 73 (2001); Powell v. Bd. of Comm'rs. of Rds. & Revenues of Gwinnett Cnty., 234 Ga. 183, 214 S.E.2d 905 (1975). In *Powell*, state law prohibited the sale of alcoholic beverages at retail locations within 300 feet of a school or church and the court upheld a county ordinance expanding the prohibition to 1,700 feet, concluding the state law merely established a "minimum distance." 234 Ga. at 183–84,

In addition, the Act does not appear to be barred by the Georgia Constitution's uniformity clause: "[l]aws of a general nature shall have uniform operation throughout this state and no local or special law shall be enacted in any case for which provision has been made by an existing general law."[68] According to the Georgia Supreme Court, this provision "follows the preemption rule of previous constitutions by precluding local or special laws when general laws exist on the same subject. Under this provision, preemption may be express or implied."[69]

However, the uniformity clause is subject to a textual exception—"the General Assembly may by general law authorize local governments by local ordinance or resolution to exercise police powers which do not conflict with general laws."[70] This provision "provides for an exception to the general rule of preemption when general law authorizes the local government to act and the local ordinance does not conflict with general law."[71] In this case, the Act expressly allows for local authorization of Sunday sales so as not to conflict with the uniformity clause.[72]

Benefits

One benefit stressed by supporters of the bill was that it increased "local control."[73] Some politicians that were ideologically opposed to Sunday sales nevertheless supported the Act because it provided an opportunity for local voters to address the issue.[74] The bill's sponsor,

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214 S.E.2d at 906. The court did "not interpret this statutory restriction to mean that a local governing authority cannot establish, pursuant to its police power authority, a distance restriction that is greater than three hundred feet." *Id.* Similarly, in *Barwick*, the Court upheld a local restriction prohibiting the location of a new bar within 600 feet of a preexisting bar. 274 Ga. at 176, 549 S.E.2d at 74. According to the Court, "[a] city council in the exercise of its police power may formulate rules and regulations for the licensing of the liquor business, even to the extent of prohibiting licensed activity in a specified area." *Id.*

68. GA. CONST. art. III, § 6, para. 4(a).

69. Franklin Cnty. v. Fieldale Farms Corp., 270 Ga. 272, 275, 507 S.E.2d 460, 462–63 (1998).

70. GA. CONST. art. III, § 6, para. 4(a).

71. *Fieldale Farms*, 270 Ga. at 275, 507 S.E.2d at 462–63.

72. O.C.G.A. § 3-3-7(p)(1–2), (q)(1–2) (Supp. 2011).

73. Senate Video, *supra* note 16, at 2 hr., 7 min., 30 sec. (remarks by Sen. Jeff Mullis (R-53rd)); Bulloch Interview, *supra* note 15 ("This is about local control and democracy."); Williams Interview, *supra* note 13 (SB 10 is about "fairness").

74. Senate Video, *supra* note 16, at 2 hr., 7 min., 30 sec. (remarks by Sen. Jeff Mullis (R-53rd)). Senator Mullis, a supporter, explained that he was, in principle, against Sunday sales. *Id.* However, in

Senator John Bulloch (R-11th), acknowledged that the rise of the Tea Party, whose members advocate for less government, may have increased the attractiveness of the "local control" benefit.[75]

Economic benefits were also cited by the bill's supporters.[76] For example, by allowing for Sunday alcohol sales, the Act benefits Georgians by increasing income for retailers.[77] Sunday is among the largest-volume sales days for grocery stores in Georgia.[78] Along with the increase in retailer income, the State of Georgia directly benefits from increased tax revenue.[79] One supporter of Sunday sales, the Distilled Spirits Council of the United States, argued that Georgia Sunday sales could generate 3.4 to 4.8 million dollars a year in additional sales tax revenue.[80] While some disagree with the council's projections regarding increased liquor sales, it seems "safe to say sales tax revenue [will] increase; the only question is by how much."[81]

Another potential benefit of the Act is how it might increase state tourism. Although there are no studies to suggest how Sunday sales of alcohol might attract tourists, at the very least, the Act helps erase the negative perception that Georgia is a "backwards place."[82] In essence, the Act brings Georgia in line with the rest of the country.[83]

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keeping with his support for "local control," he supported the bill. *Id.* Governor Deal was also personally opposed to Sunday sales, however, he declined to veto the bill. Sneed, *supra* note 56.

75. Bulloch Interview, *supra* note 15.

76. *Infra* notes 77–81 and accompanying text.

77. Ben Jenkins, *Pro & Con: Should Georgia Allow Retail Alcohol Sales on Sundays?*, ATLANTA J.-CONST., Feb. 14, 2011, at A11, *available at* http://www.ajc.com/opinion/pro-con-should-georgia-838254.html. One economist, Mark Stehr, estimates that states experience a 3% increase in overall liquor sales when a Sunday sales ban is lifted. *Georgia Can Bring in Big Bucks by Ending Booze Ban, Group Says*, POLITIFACT GEORGIA (Mar. 18, 2011), http://www.politifact.com/georgia/statements/2011/feb/22/distilled-spirits-council-united-states/georgia-can-bring-big-bucks-ending-booze-ban-group/ [hereinafter *Big Bucks*].

78. Stewart & Sugg, *supra* note 2, at 16–17.

79. *See supra* note 77 and accompanying text.

80. Jenkins, *supra* note 77 (Mr. Jenkins, Vice President of the Distilled Spirits Council of the United States, estimated the passage of the Act would increase tax revenues in Georgia by five to percent percent, translating into additional sales between 181,250 and 253,750 of 9-liter cases.). This sale increase, using Georgia's four percent sales tax, and several additional local taxes, could increase tax revenue by 3.4 to 4.8 million dollars a year. *Big Bucks*, *supra* note 77.

81. *Big Bucks*, *supra* note 77.

82. Stewart & Sugg, *supra* note 2, at 18–19.

83. *See* Paige Bowers, *Will the Recession Doom the Last Sunday Blue Laws?*, TIME, Feb. 22, 2009, *available at* http://www.time.com/time/nation/article/0,8599,1880340,00.html.

Public Policy Concerns

Legislators opposed to the bill argued Sunday sales will increase instances of drunk driving.[84] Senator Bill Cowsert (R-46th) expressed concern that Sunday sales would cause "more drinking and driving, more automobile-related collisions, more deaths, and more injuries."[85] Additionally, Senators Joshua McKoon (R-29th) and Vincent Fort (D-39th) cited a study analyzing the impact on crashes and fatalities after New Mexico eased restrictions on Sunday liquor sales in 1995.[86] According to that study, the easing of Sunday sales restrictions increased alcohol-related traffic crashes by twenty-nine percent and alcohol-related fatalities by forty-two percent.[87]

Senator Johnny Grant (R-25th) responded to these concerns, calling attention to the fact that New Mexico raised speed limits during the time of the study.[88] The Senator also pointed to National Highway Traffic Safety Administration data showing that in the five-year period before the law changed, there were 1,104 drunk driving deaths in New Mexico; however, in the five years after the law was changed, there were only 779 fatalities—a thirty percent decline in total alcohol-related traffic fatalities.[89]

Other studies have not provided any clear evidence that Sunday sales lead to increases in alcohol-related traffic accidents. According to Drexel University assistant professor Mark Stehr, it is "unlikely

84. Senate Video, *supra* note 16, at 1 hr., 31 min., 15 sec. (remarks by Sen. Joshua McKoon (R-29th)); *Id.* at 2 hr., 5 min., 30 sec. (remarks by Sen. Bill Cowsert (R-46th)).

85. *Id.* at 2 hr., 4 min., 30 sec. (remarks by Sen. Bill Cowsert (R-46th)).

86. *Id.* at1 hr., 38 min. (remarks by Sen. Joshua McKoon (R-29th)); *id.* at 1 hr., 52 min. (remarks by Sen. Vincent Fort (D-39th)). This study, conducted by researchers at the Behavioral Health Research Center of the Southwest, analyzed alcohol-related motor vehicle crashes that occurred in New Mexico between July 1, 1990, and June 30, 2000, to: (1) estimate the effects of a 1995 law legalizing Sunday packaged alcohol sales on alcohol-related motor vehicle crash rates and fatalities in New Mexico; and (2) to determine the extent to which demographic and geographic patterns moderate the effects of Sunday sales on crash and fatality rates. BEHAVIORAL HEALTH RESEARCH CENTER OF THE SOUTHWEST, *Car Crashes, Fatalities Rise Sharply with New Mexico Sunday Package Liquor Sales* (2007), http://www.rwjf.org/reports/grr/049668.htm.The study found that "[b]oth alcohol-related crashes and alcohol-related crash fatalities occurring between noon on Sunday and noon on Monday increased (by 29 and 42 percent, respectively) after the 1995 law allowed packaged alcohol to be sold on Sundays," and that "[c]ounties whose largest communities exercised the legislative option to disallow Sunday packaged alcohol sales had the lowest relative increase in alcohol-related crashes." *Id.*

87. *Id.*

88. Senate Video, *supra* note 16, at 1 hr., 40 min., 30 sec. (remarks by Sen. Johnny Grant (R-25th)).

89. *Id.*

that Georgia would experience much of an uptick" after allowing Sunday sales.[90]

In sum, the Sunday sales debate involved a discussion of different benefits and possible negative consequences.[91] Even though the Act was passed by the General Assembly, the debate is likely to continue as local governments and local voters decide whether to allow for package alcohol sales on Sundays in their own localities.[92]

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90. *Lawmakers Claim on Sunday Alcohol Sales Proves Flawed*, POLITIFACT GEORGIA (Mar. 18, 2011), http://www.politifact.com/georgia/statements/2011/mar/18/georgia-state-senators/lawmakers-claim-sunday-alcohol-sales-proves-flawed/.

91. *Supra* notes 73–90 and accompanying text.

92. The Act did not legalize Sunday sales, instead, it provided a mechanism that local governments *may* use to legalize Sunday package alcohol sales if approved by a majority of voters via referendum. *Supra* note 56 and accompanying text.