



Office of the Mayor
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To: Urbana City Council

From: Diane Wolfe Marlin, Mayor

Re: Ordinance 2018-03-024 Amending Urbana City Code Chapter 22, Section 22-91

Action Requested

Approval of "AN ORDINANCE AMENDING CITY CODE CHAPTER 22 (Local Food and Beverage Tax Exemption for Certain Beer Sales to Distributors)"

Background

In the last several years, the City has become the home of two local breweries. Both breweries provide for the retail sale of their beer for consumption both on- and off-premises. However, at least one of the breweries has begun selling its beer to distributors which wholesale the beer to liquor licensees which sell the product at retail. Pursuant to current City ordinance (UCC Sec. 22-91) the City has been collecting both sales and food and beverage taxes on the purchase of beer by the keg by distributors.

To promote and foster the local growing industry of brewing beer and its sale in larger quantities to distributors of such beer, the ordinance referenced above would create an exemption from the City of Urbana's 1.5% Food and Beverage Tax that currently applies to these types of purchases. (the City of Champaign's food and beverage tax does not apply to the sale of alcoholic liquor (including beer) to distributors. Champaign City Code Sec. 32-151.) We recommend that beer sold to distributors (wholesale) be tax-exempt.

Recommendations

It is recommended that "AN ORDINANCE AMENDING CITY CODE CHAPTER 22 (City Tax Exemption for Certain Beer Sales to Distributors)" be approved.

Attachments: "AN ORDINANCE AMENDING CITY CODE CHAPTER 22 (City Tax Exemption for Certain Beer Sales to Distributors)"



ORDINANCE NO. 2018-03-024

AN ORDINANCE AMENDING URBANA CITY CODE SECTION 22-91

(City Tax Exemption for Certain Beer Sales to Distributors)

WHEREAS, the City of Urbana (“City”) is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs, including the power to tax; and

WHEREAS, Section 4-1 of the Liquor Control Act of 1934, 235 ILCS 5/4-1, gives the City Council the power by general ordinance or resolution to establish such regulations and restrictions upon the issuance of and operations under local liquor licenses not inconsistent with law as the public good and convenience may require; and

WHEREAS, the City Council has adopted and, from time to time, has amended Urbana City Code Chapter 22, Article VII, Section 22-90 *et seq.* concerning the imposition of a tax for the privilege of purchasing prepared food items for immediate consumption and certain alcoholic liquor at the rate of one and one half (1½) percent in addition to all other taxes imposed by the City (hereinafter, “food and beverage tax”); and

WHEREAS, Urbana City Code Chapter 22, Section 22-91 provides for certain exemptions concerning the imposition of the food and beverage tax on certain types of purchases; and

WHEREAS, the City Council finds that, in order to promote and foster the growing local industry of brewing beer and its sale in larger quantities to distributors of such beer, it is proper that an exception to the food and beverage tax be included with the other exceptions provided for in the said tax.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1.

Urbana City Code Chapter 22, "Taxation," Article VII, "Privilege Tax on Purchase of Prepared Food for Immediate Consumption and Certain Alcoholic Liquor," Section 22-91, "Tax" shall be and hereby is amended with the underlined text indicating new language and the strikethrough text indicating deletions as follows:

Sec. 22-91. - Tax.

- (a) A tax, in addition to all other taxes, is hereby levied and imposed upon the privilege of purchasing prepared food items for immediate consumption or alcoholic liquor at the rate of one and one-half (1½) percent of the purchase price, exclusive of any other tax, charged for such food or alcoholic liquor.
- (b) No such tax shall be levied or imposed upon purchasers for the privilege of purchasing:
 - (1) Prepared food for immediate consumption purchased at employee cafeterias by employees and guests of employees of such place of employment;
 - (2) Prepared food for immediate consumption purchased at school lunchrooms by students, teachers, and staff of such school;
 - (3) Prepared food for immediate consumption purchased at premises or operations of not-for-profit, religious, or governmental corporations who serve such food on an occasional and irregular basis; ~~and~~
 - (4) Prepared food for immediate consumption purchased at hospitals by patients or at residential care facilities by residents thereof; and
 - (5) Beer brewed within the city limits and which is purchased by a duly licensed distributor of alcoholic liquor for subsequent resale to any person who holds a valid liquor license regardless of where located.
- (c) The ultimate incidence of and liability for payment of such tax shall be borne by the purchaser of taxable prepared food for immediate consumption or alcoholic liquor.
- (d) Any and all revenues resulting from the imposition and collection of the tax under this article shall be allocated to the general fund.

Section 2.

Those sections, paragraphs, and provisions of the Urbana City Code that are not expressly amended or repealed by this Ordinance are hereby re-enacted, and it is expressly declared to be the intention of this Ordinance not to repeal or amend any portions of the Urbana City Code other than those

expressly set forth as amended or repealed in this Ordinance. The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions thereof.

Section 3.

This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 4.

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

This Ordinance is hereby passed by the affirmative vote, the “ayes” and “nays” being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED BY THE CITY COUNCIL this ___ day of _____, _____.

AYES:

NAYS:

ABSTENTIONS:

Charles A. Smyth, City Clerk

APPROVED BY THE MAYOR this ___ day of _____, _____.

Diane Wolfe Marlin, Mayor