Ord. #5615

A SUBSTITUTE ORDINANCE TO AMEND CHAPTER 4, OF THE CITY OF MEMPHIS CODE OF ORDINANCES RELATIVE TO ALCOHOLIC BEVERAGES GENERAL, AND BEER AND OTHER LIGHT BEVERAGES EXCLUDING RETAIL FOOD STORES FROM THE LOCATION RESTRICTION FOR THE MANUFACTURE AND SALE OF ALCOHOLIC BEVERAGES NEAR CHURCHES, SCHOOLS OR OTHER PRIVATE INSTITUTIONS OR RESIDENTIAL AREAS

WHEREAS, the "wine in grocery stores" bill was passed by the Tennessee legislature to allow retail food stores to sell wine, subject to approval of the citizens of the municipality by referendum vote;

WHEREAS, the citizens of the City of Memphis obtained the requisite number of signatures required to place the decision to permit retail food stores to sell wine by referendum on the ballot;

WHEREAS, on November 4, 2014, citizens of the City of Memphis voted by referendum in favor of the sale of wine in retail food stores;

WHEREAS, the City of Memphis ordinances provide for distance/location requirements for applicants for sale of off-premises beer and wine/liquor licenses, but do not specifically provide any distance/location requirements for retail food stores to sell wine;

NOW THEREFORE,

SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that Chapter 4, Article 1, Sec. 4-1. Definitions. Is hereby amended to add the following:

"Retail food store" is defined as an establishment that is open to the public that derives at least 20% of its sales from the retail sale of food and food ingredients for human consumption taxed at the rate provided in Tennessee Code Ann. § 67-6-228(a) and has retail floor space of at least 1,200 square feet, or as otherwise defined by Tennessee law.

"Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed eighteen percent (18%) by volume. No other product shall be called "wine" unless

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designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominately produced, or an artificial or imitation wine. "Wine" does not mean alcohol derived from wine that has had substantial changes to the wine due to the addition of flarorings and additives.

Nothing in this ordinance shall be construed to allow wine sales at retail food stores for on premises consumption, including by the drink or by the pour, nor shall this ordinance be construed to allow the sale of liquor or spirits other than wine or beer at a food retail store.

SECTION 2. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, That Chapter 4, Article 1, Section 4-5 of the City of Memphis Code of Ordinances be amended by adding sub-section d as follows:

(d) The location restriction (as defined in subsection A of this section) shall not apply to a qualified "retail food store wine license" applicant, that as of December 31, 2015, holds any off-premises beer permit, or upon application for a retail food store wine license, qualifies for any off-premises beer sales permit under Chapter 4, Article III, Division 2.

SECTION 3. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, That Chapter 4, Article III, Section 4-71 of the City of Memphis Code of Ordinances be amended by adding sub-section d as follows:

(d) The location restriction (as defined in subsection C of this section) shall not apply to a qualified "retail food store wine license" applicant, that as of December 31, 2015, holds any off-premises beer permit, or upon application for a retail food store wine license, qualifies for any off-premises beer sales permit under Chapter 4, Article III, Division 2.

SECTION 4. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS That the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 5. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that this Ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the Comptroller, and become effective as otherwise provided by law.

Sponsor: Worth Morgan,
Councilman

Kemp Conrad, Chairman
Memphis City Council

ATTEST:

Comptroller

THE FOREGOING ORDINANCE
5615 PASSED
1st Reading 04-05-2016
2nd Reading 04-19-2016
3rd Reading 05-03-2016

Approved _____
Chairman of Council

Date Signed: 17 May 16

Approved: _____
Mayor, City of Memphis

Date Signed: 5/18/16

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

Valerie C. Snipes
Comptroller