

1 HB86  
2 126279-2  
3 By Representatives Hubbard (J) and Mask  
4 RFD: Economic Development and Tourism  
5 First Read: 01-MAR-11

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8 SYNOPSIS: Under existing law, a brewpub is any  
9 premises upon which beer is manufactured or brewed  
10 for consumption on the premises.

11 This bill would provide for the sale of the  
12 beer to any designated wholesaler licensee for  
13 resale to retail licensees.

14 Existing law does not allow the sale of beer  
15 manufactured or brewed by the brewpub in original,  
16 unopened keg or barrel containers to any licensed  
17 wholesaler designated by the brewpub licensee.

18 This bill would allow such sales.

19 Also, existing law does not allow the  
20 purchase of draft or keg beer, brewed by other  
21 manufacturers in original unopened containers from  
22 any licensed wholesaler, and for the brewpub to  
23 resell the beer for consumption on its premises.

24 This bill would allow such purchases.

25  
26 A BILL  
27 TO BE ENTITLED

1 AN ACT

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3 To amend Sections 28-4A-2, 28-4A-3, and 28-4A-4 of  
4 the Code of Alabama 1975, relating to the Brewpub Act; to  
5 permit the sale of beer manufactured or brewed by the brewpub  
6 in original, unopened keg or barrel containers to any licensed  
7 wholesaler designated by the brewpub licensee; to permit the  
8 distribution and resale by the licensed wholesaler to retail  
9 licensees; to allow the purchase of beer, including draft or  
10 keg beer, brewed by other manufacturers in original unopened  
11 containers from any licensed wholesaler for resale of the beer  
12 by the brewpub for consumption on its premises; and to remove  
13 certain limitations on brewpub operations.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 28-4A-2, 28-4A-3, and 28-4A-4 of  
16 the Code of Alabama 1975, are amended to read as follows:

17 "§28-4A-2.

18 "(a) The words and phrases used in this chapter  
19 shall have the meanings ascribed to them in Section 28-3-1,  
20 and any acts amendatory thereof, supplementary thereto or  
21 substituted therefor.

22 "(b) The following words or phrases, whenever they  
23 appear in this chapter, unless the context clearly indicates  
24 otherwise, shall have the meaning ascribed to them in this  
25 subsection:

26 "(1) BREWPUB. Any premises upon which beer is  
27 manufactured or brewed, subject to the barrel production

1 limitation prescribed in this chapter, for consumption  
2 ~~exclusively~~ on the premises or for sale to any designated  
3 wholesaler licensee for resale to retail licensees.

4 "(2) PREMISES. Any building, structure or portion  
5 thereof designated as a historic building and site as defined  
6 in Section 40-8-1, in which is located the operations of a  
7 brewpub.

8 "§28-4A-3.

9 "(a) In addition to the licenses authorized to be  
10 issued and renewed by the board pursuant to the Alcoholic  
11 Beverage Licensing Code codified as Chapter 3A, Title 28, the  
12 board, upon applicant's compliance with the provisions of this  
13 chapter and with Chapter 3A, Title 28, and the regulations  
14 made thereunder, is authorized to issue to a qualified  
15 applicant a brewpub license which shall authorize the licensee  
16 to manufacture or brew beer in a quantity not to exceed 10,000  
17 barrels in any one year and to sell such beer in unpackaged  
18 form at retail for on-premises consumption ~~only~~ and to sell  
19 such beer in original unopened barrel containers to any  
20 licensed wholesaler designated by a brewpub licensee as  
21 manufacturer pursuant to Sections 28-8-2 and 28-9-3 for retail  
22 licensees, and to purchase beer, including draft or keg beer,  
23 in original unopened containers from licensed wholesalers and  
24 to sell such beer at retail for on-premises consumption only,  
25 in a room or rooms or place on the licensed premises at all  
26 times accessible to the use and accommodation of the general  
27 public, subject to the following conditions:

1           "(1) The brewpub premises must be located in an  
2 historic building or site as defined in Section 40-8-1, in a  
3 wet county or wet municipality, in which county beer was  
4 brewed for public consumption prior to the ratification of the  
5 Eighteenth Amendment to the U.S. Constitution in 1919.

6           "(2) The proposed location of the premises shall  
7 not, at the time of the original application, be prohibited by  
8 a valid zoning ordinance or other ordinance in the valid  
9 exercise of police power by the governing body of the  
10 municipality or county in which the brewpub is located.

11           "(3) Beer brewed by the brewpub licensee shall not  
12 be possessed, sold or dispensed except on the premises where  
13 brewed, or where sold in original unopened containers to any  
14 designated wholesaler licensee, and shall not be packaged or  
15 contained in other than barrels ~~from which the beer is to be~~  
16 ~~dispensed on the premises for consumption on the premises.~~

17           "(4) The brewpub ~~must~~ may contain and operate a  
18 restaurant ~~with a seating capacity of not less than 80.~~

19           "(b) The annual license fee levied and prescribed  
20 for a license as a brewpub issued or renewed by the board  
21 pursuant to the authority of this chapter is \$1,000.

22           "(c) Except as provided in this subsection, the  
23 provisions of Title 28 shall be applicable. The provisions of  
24 Section 28-3-4 and subsection (b) of Section 28-3A-6, shall  
25 not be applicable with regard to beer brewed by the brewpub  
26 and sold and dispensed on the brewpub premises. In all other

1 respects, Section 28-3-4 and Section 28-3A-6(b) shall be  
2 applicable.

3 "§28-4A-4.

4 "(a) In addition to the licenses provided for by  
5 this chapter and any county or municipal license, there is  
6 levied on the brewpub for the on-premises sales of beer brewed  
7 by the brewpub licensee the privilege or excise taxes imposed  
8 by Sections 28-3-184 and 28-3-190. Every brewpub licensee  
9 shall file the tax returns, pay the taxes and perform all  
10 obligations imposed on wholesalers at the times and places set  
11 forth therein. It shall be unlawful for any brewpub licensee  
12 who is required to pay the taxes so imposed in the first  
13 instance to fail or refuse to add to the sales price and  
14 collect from the purchaser the required amount of tax, it  
15 being the intent and purpose of this provision that each of  
16 the taxes levied is in fact a tax on the consumer, with the  
17 brewpub licensee who pays the tax in the first instance acting  
18 merely as an agent of the state for the collection and payment  
19 of the tax levied by Section 28-3-184 and as an agent of the  
20 county or municipality for the collection and payment of the  
21 tax levied by Section 28-3-190.

22 "(b) The brewpub shall be required to keep and  
23 maintain all of the records otherwise required to be kept and  
24 maintained by manufacturer, wholesaler, and retailer  
25 licensees.

26 "(c) The brewpub shall appoint a licensed wholesaler  
27 designee in order to preserve Section 28-9-1. In addition, for

1     the on-premises sales of beer brewed by the brewpub licensee,  
2     the brewpub shall be exempt from Sections 28-9-3 through  
3     28-9-11."

4             Section 2. This act shall become effective on the  
5     first day of the third month following its passage and  
6     approval by the Governor, or its otherwise becoming law.