

1 HB500
2 117692-1
3 By Representatives Wood, McCutcheon and Millican
4 RFD: Tourism and Travel
5 First Read: 04-FEB-10

2
3
4
5
6
7
8 SYNOPSIS: Currently, certain terms are defined for
9 purposes of the Alabama Alcoholic Beverage
10 Licensing Code.

11 This bill would define the term "draft or
12 keg beer" for such purposes.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

17
18 To amend Section 28-3-1, Code of Alabama 1975, as
19 amended by Act No. 2009-771, 2009 Regular Session (Acts 2009,
20 p. 2380), relating to the definitions for purposes of the
21 Alabama Alcoholic Beverage Licensing Code, to define the term
22 "draft or keg beer" for such purposes.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 28-3-1, Code of Alabama 1975, as
25 amended by Act No. 2009-771, 2009 Regular Session (Acts 2009,
26 p. 2380) is amended to read as follows:

27 "§28-3-1.

1 "The following words or phrases, whenever they
2 appear in this chapter, and in Alcoholic Beverage Licensing
3 Code, being Act No. 80-529, Acts of Alabama, 1980, as amended,
4 appearing as Chapter 3A, Title 28, as amended, and the Alabama
5 Table Wine Act, being Act 80-382, Acts of Alabama 1980, as
6 amended, appearing as Chapter 7, Title 28, as amended, unless
7 the context clearly indicates otherwise, shall have the
8 meaning ascribed to them in this section:

9 "(1) ALCOHOLIC BEVERAGES. Any alcoholic, spirituous,
10 vinous, fermented or other alcoholic beverage, or combination
11 of liquors and mixed liquor, a part of which is spirituous,
12 vinous, fermented or otherwise alcoholic, and all drinks or
13 drinkable liquids, preparations or mixtures intended for
14 beverage purposes, which contain one-half of one percent or
15 more of alcohol by volume, and shall include liquor, beer, and
16 wine, both fortified and table wine.

17 "(2) ASSOCIATION. A partnership, limited
18 partnership, or any form of unincorporated enterprise owned by
19 two or more persons.

20 "(3) BEER, or MALT OR BREWED BEVERAGES. Except as
21 otherwise provided in this subdivision, any beer, lager beer,
22 ale, porter, malt or brewed beverage, or similar fermented
23 malt liquor containing one-half of one percent or more of
24 alcohol by volume and not in excess of thirteen and
25 nine-tenths percent by volume, by whatever name the same may
26 be called. Beer or malt or brewed beverages sold by the holder
27 of a retail beer license for off-premises consumption pursuant

1 to Section 28-3A-17 shall only include any beer, lager beer,
2 ale, porter, malt or brewed beverage, or similar fermented
3 malt liquor containing one-half of one percent or more of
4 alcohol by volume and not in excess of five percent alcohol by
5 weight and six percent by volume, by whatever name the same
6 may be called.

7 "(4) BOARD. The Alcoholic Beverage Control Board.

8 "(5) CARTON. The package or container or containers
9 in which alcoholic beverages are originally packaged for
10 shipment to market by the manufacturer or its designated
11 representatives or the importer.

12 "(6) CONTAINER. The single bottle, can, keg, bag or
13 other receptacle, not a carton, in which alcoholic beverages
14 are originally packaged for the market by the manufacturer or
15 importer and from which the alcoholic beverage is consumed by
16 or dispensed to the public.

17 "(7) CLUB.

18 "a. Class I. A corporation or association organized
19 or formed in good faith by authority of law and which must
20 have at least 150 paid-up members. It must be the owner,
21 lessee or occupant of an establishment operated solely for the
22 objects of a national, social, patriotic, political or
23 athletic nature or the like, but not for pecuniary gain, and
24 the property as well as the advantages of which, belong to all
25 the members and which maintains an establishment provided with
26 special space and accommodations where, in consideration of
27 payment, food with or without lodging is habitually served.

1 The club shall hold regular meetings, continue its business
2 through officers regularly elected, admit members by written
3 application, investigation and ballot and charge and collect
4 dues from elected members.

5 "b. Class II. A corporation or association organized
6 or formed in good faith by authority of law and which must
7 have at least 100 paid-up members. It must be the owner,
8 lessee or occupant of an establishment operated solely for the
9 objects of a national, social, patriotic, political or
10 athletic nature or the like. The club shall hold regular
11 meetings, continue its business through officers regularly
12 elected, admit members by written application, investigation
13 and ballot and charge and collect dues from elected members.

14 "(8) CORPORATION. A corporation or joint stock
15 association organized under the laws of this state, the United
16 States, or any other state, territory or foreign country, or
17 dependency.

18 "(9) DRY COUNTY. Any county which by a majority of
19 those voting voted in the negative in an election heretofore
20 held under the applicable statutes at the time of said
21 election or may hereafter vote in the negative in an election
22 or special method referendum hereafter held in accordance with
23 the provisions of Chapter 2 of this title, or held in
24 accordance with the provisions of any act hereafter enacted
25 permitting such election.

26 "(10) DRY MUNICIPALITY. Any municipality within a
27 wet county which has, by its governing body or by a majority

1 of those voting in a municipal election heretofore held in
2 accordance with the provisions of Section 28-2-22, or in a
3 municipal option election heretofore or hereafter held in
4 accordance with the provisions of Act 84-408, Acts of Alabama
5 1984, appearing as Chapter 2A of this title, or any act
6 hereafter enacted permitting municipal option election, voted
7 to exclude the sale of alcoholic beverages within the
8 corporate limits of said municipality.

9 "(11) GENERAL WELFARE PURPOSES.

10 "a. The administration of public assistance as set
11 out in Sections 38-2-5 and 38-4-1;

12 "b. Services, including supplementation and
13 supplementary services under the federal Social Security Act,
14 to or on behalf of persons to whom such public assistance may
15 be given under said Sections 38-2-5 and 38-4-1;

16 "c. Service to and on behalf of dependent, neglected
17 or delinquent children; and

18 "d. Investigative and referral services to and on
19 behalf of needy persons.

20 "(12) HEARING COMMISSION. A body appointed by the
21 board to hear and decide all contested license applications
22 and all disciplinary charges against any licensee for
23 violation of this title or the regulations of the board.

24 "(13) HOTEL. A building or buildings held out to the
25 public for housing accommodations of travelers or transients,
26 and shall include motel, but shall not include a rooming house
27 or boarding house.

1 "(14) IMPORTER. Any person, association or
2 corporation engaged in importing alcoholic beverages, liquor,
3 wine or beer, manufactured outside of the United States of
4 America into this state or for sale or distribution in this
5 state, or to the board or to a licensee of the board.

6 "(15) LIQUOR. Any alcoholic, spirituous, vinous,
7 fermented, or other alcoholic beverage, or combination of
8 liquors and mixed liquor, a part of which is spirituous,
9 fermented, vinous or otherwise alcoholic, and all drinks or
10 drinkable liquids, preparations or mixtures intended for
11 beverage purposes, which contain one-half of one percent or
12 more of alcohol by volume, except beer and table wine.

13 "(16) LIQUOR STORE. A liquor store operated by the
14 board, where alcoholic beverages other than beer are
15 authorized to be sold in unopened containers.

16 "(17) MANUFACTURER. Any person, association or
17 corporation engaged in the producing, bottling, manufacturing,
18 distilling, rectifying or compounding of alcoholic beverages,
19 liquor, beer or wine in this state or for sale or distribution
20 in this state or to the board or to a licensee of the board.

21 "(18) MINOR. Any person under 21 years of age,
22 except a person 19 years of age or older prior to October 1,
23 1985, is not a minor; provided, however, in the event Section
24 28-1-5, shall be repealed or otherwise shall be no longer in
25 effect, thereafter the provisions of Section 26-1-1, shall
26 govern.

1 "(19) MUNICIPALITY. Any incorporated city or town of
2 this state to include its police jurisdiction.

3 "(20) PERSON. Every natural person, association or
4 corporation. Whenever used in a clause prescribing or imposing
5 a fine or imprisonment, or both, such term as applied to
6 "association" shall mean the partners or members thereof and
7 as applied to "corporation" shall mean the officers thereof,
8 except as to incorporated clubs the term "person" shall mean
9 such individual or individuals who, under the bylaws of such
10 clubs, shall have jurisdiction over the possession and sale of
11 liquor therein.

12 "(21) POPULATION. The population according to the
13 last preceding or any subsequent decennial census of the
14 United States, except where a municipality is incorporated
15 subsequent to the last census, in which event, its population
16 until the next decennial census shall be the population of
17 said municipality as determined by the judge of probate of
18 said county as the official population on the date of its
19 incorporation.

20 "(22) RESTAURANT. A reputable place licensed as a
21 restaurant, operated by a responsible person of good
22 reputation and habitually and principally used for the purpose
23 of preparing and serving meals for the public to consume on
24 the premises.

25 "(23) MEAL. A diversified selection of food some of
26 which is not susceptible of being consumed in the absence of

1 at least some articles of tableware and which cannot be
2 conveniently consumed while one is standing or walking about.

3 "(24) RETAILER. Any person licensed by the board to
4 engage in the retail sale of any alcoholic beverages to the
5 consumer.

6 "(25) SALE or SELL. Any transfer of liquor, wine or
7 beer for a consideration, and any gift in connection with, or
8 as a part of, a transfer of property other than liquor, wine
9 or beer for a consideration.

10 "(26) SELLING PRICE. The total marked-up price of
11 spirituous or vinous liquors sold by the board, exclusive of
12 taxes levied thereon.

13 "(27) UNOPENED CONTAINER. A container containing
14 alcoholic beverages, which has not been opened or unsealed
15 subsequent to filling and sealing by the manufacturer or
16 importer.

17 "(28) WET COUNTY. Any county which by a majority of
18 those voting voted in the affirmative in an election
19 heretofore held in accordance with the statutes applicable at
20 the time of said election or may hereafter vote in the
21 affirmative in an election or special method referendum held
22 in accordance with the provisions of Chapter 2 of this title,
23 or other statutes applicable at the time of said election.

24 "(29) WET MUNICIPALITY. Any municipality in a dry
25 county which by a majority of those voting voted in the
26 affirmative in a municipal option election heretofore or
27 hereafter held in accordance with the provisions of Act

1 84-408, Acts of Alabama 1984, appearing as Chapter 2A of this
2 title, as amended, or any act hereafter enacted permitting
3 municipal option election, or any municipality which became
4 wet by vote of the governing body or by the voters of the
5 municipality heretofore or hereafter held under the special
6 method referendum provisions of Section 28-2-22, or as
7 hereafter provided, where the county has become dry subsequent
8 to the elected wet status of the municipality.

9 "(30) WHOLESALER. Any person licensed by the board
10 to engage in the sale and distribution of table wine and beer,
11 or either of them, within this state, at wholesale only, to be
12 sold by export or to retail licensees or other wholesale
13 licensees or others within this state lawfully authorized to
14 sell table wine and beer, or either of them, for the purpose
15 of resale only.

16 "(31) WINE. All beverages made from the fermentation
17 of fruits, berries, or grapes, with or without added spirits,
18 and produced in accordance with the laws and regulations of
19 the United States, containing not more than 24 percent alcohol
20 by volume, and shall include all sparkling wines, carbonated
21 wines, special natural wines, rectified wines, vermouths,
22 vinous beverages, vinous liquors, and like products, including
23 restored or unrestored pure condensed juice.

24 "(32) FORTIFIED WINE or VINOUS LIQUOR. Any wine
25 containing more than 16.5 percent alcohol by volume but not
26 more than 24 percent. Fortified wine is vinous liquor.

1 "(33) TABLE WINE. Except as otherwise provided in
2 this subdivision, any wine containing not more than 16.5
3 percent alcohol by volume. Table wine sold at a convenience
4 store by the holder of a retail table wine license for
5 off-premises consumption, pursuant to Section 28-3A-15, shall
6 only include wine containing not more than 14.9 percent
7 alcohol by volume. Table wine is not liquor, spirituous or
8 vinous.

9 "(34) BRANDY. All beverages which are an alcoholic
10 distillate from the fermented juice, mash, or wine of fruit,
11 or from the residue thereof, produced in such manner that the
12 distillate possesses the taste, aroma, and characteristics
13 generally attributed to the beverage, as bottled at not less
14 than 80 degree proof.

15 "(35) CONVENIENCE STORE. A small store that is
16 engaged primarily in the quick retail sale of motor fuel and a
17 limited quantity and variety of consumable items in their
18 original containers for off-premises consumption. The term
19 does not include any of the following:

20 "a. A large store engaged primarily in, and deriving
21 a substantial amount of gross revenue from, the retail sale of
22 food and dry goods for off-premises consumption, commonly
23 known as a grocery store or department store.

24 "b. A specialty store engaged primarily in, and
25 deriving a substantial amount of gross revenue from, the
26 retail sale of wine for on-premises or off-premises
27 consumption.

1 "(35) DRAFT or KEG BEER. Beer which is packaged and
2 distributed in a keg by the manufacturer. As used herein, keg
3 means a pressurized factory sealed container with a capacity
4 equal to or greater than five gallons, from which the beer is
5 withdrawn by means of an external tap."

6 Section 2. This act shall become effective
7 immediately following its passage and approval by the
8 Governor, or its otherwise becoming law.