

1 SB243
2 190110-3
3 By Senator Holtzclaw
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 30-JAN-18

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8 SYNOPSIS: Currently, there is no specific license
9 issued by the Alcoholic Beverage Control Board
10 relating to direct shipping of limited quantities
11 of wine to Alabama residents for their personal
12 use.

13 This bill would allow a currently licensed
14 wine manufacturer to obtain a wine direct shipper
15 permit from the Alcoholic Beverage Control Board to
16 allow the permittee to ship limited quantities of
17 wine directly to Alabama residents for their
18 personal use.

19 This bill would authorize delivery service
20 carriers approved by the board to deliver wine
21 directly to residents.

22 This bill would also provide that a person
23 who ships wine directly to a resident without a
24 permit is guilty of a Class C misdemeanor.

25 Amendment 621 of the Constitution of Alabama
26 of 1901, now appearing as Section 111.05 of the
27 Official ReCompilation of the Constitution of

1 Alabama of 1901, as amended, prohibits a general
2 law whose purpose or effect would be to require a
3 new or increased expenditure of local funds from
4 becoming effective with regard to a local
5 governmental entity without enactment by a 2/3 vote
6 unless: it comes within one of a number of
7 specified exceptions; it is approved by the
8 affected entity; or the Legislature appropriates
9 funds, or provides a local source of revenue, to
10 the entity for the purpose.

11 The purpose or effect of this bill would be
12 to require a new or increased expenditure of local
13 funds within the meaning of the amendment. However,
14 the bill does not require approval of a local
15 governmental entity or enactment by a 2/3 vote to
16 become effective because it comes within one of the
17 specified exceptions contained in the amendment.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
22

23 To provide for a wine direct shipper license; to
24 amend Section 28-1-4, Code of Alabama 1975, and to add Section
25 28-3A-6.1 to the Code of Alabama 1975; to allow a currently
26 licensed wine manufacturer to obtain a wine direct shipper
27 permit from the Alcoholic Beverage Control Board to allow the

1 permittee to ship limited quantities of wine directly to
2 Alabama residents for their personal use; to provide for the
3 permitting procedure; to provide restrictions and requirements
4 on the direct shipment of wine; to provide for issuance and
5 renewal fees for the wine direct shipper permit; to authorize
6 delivery service carriers to deliver wine to residents; to
7 provide that the direct shipment of wine without a permit
8 constitutes a Class C misdemeanor; and in connection therewith
9 would have as its purpose or effect the requirement of a new
10 or increased expenditure of local funds within the meaning of
11 Amendment 621 of the Constitution of Alabama of 1901, now
12 appearing as Section 111.05 of the Official Recompilation of
13 the Constitution of Alabama of 1901, as amended.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Section 28-1-4, Code of Alabama 1975, is
16 amended to read as follows:

17 "§28-1-4.

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

22 "(b) It shall be unlawful for common or permit
23 carriers, operators of trucks, buses or other conveyances or
24 out-of-state manufacturers or suppliers to make delivery of
25 any alcoholic beverage from ~~without~~ outside the State of
26 Alabama to any person, association or corporation within the
27 state, except to the Alabama Alcoholic Beverage Control Board

1 and to manufacturers, importers, wholesalers and warehouses
2 licensed by the Alabama Alcoholic Beverage Control Board to
3 receive the alcoholic beverages so delivered; provided,
4 however, wine may be shipped to a resident who is at least 21
5 years of age in the state at the direction of a wine direct
6 shipper permittee in accordance with Section 28-3A-6.1.

7 "(c) Notwithstanding subsection (b), a delivery
8 service carrier may transport and deliver shipments of wine to
9 a resident at the direction of a wine direct shipper
10 permittee. The delivery service carrier is not required to
11 maintain in the vehicle or within the possession of the driver
12 of the vehicle a bill of lading, consignment, or any other
13 documentary evidence of the cargo being transported other than
14 information available on the package shipping label.

15 ~~"(c)(d) Any violation of subsection (a) (b) of this~~
16 ~~section shall be a misdemeanor, punishable as provided in~~
17 ~~paragraph (1) of subsection (b) of Section 28-3A-25.~~

18 ~~"(d) All laws or parts of law which conflict or are~~
19 ~~inconsistent with this section are hereby repealed, provided,~~
20 ~~however, the provisions of Section 28-1-3 are excluded."~~

21 Section 2. Section 28A-3A-6.1 is added to the Code
22 of Alabama 1975, to read as follows:

23 §28-3A-6.1.

24 (a) Any person currently licensed in this state as a
25 wine manufacturer who obtains a wine direct shipper permit, as
26 provided in this section, may ship annually up to 24 cases of
27 wine, each case not exceeding nine liters of wine. The wine

1 shall be shipped directly to a resident of Alabama who is at
2 least 21 years of age for the resident's personal use and not
3 for resale.

4 (b) In order to receive a permit to ship wine to an
5 Alabama resident, the applicant for a wine direct shipper
6 permit shall do all of the following:

7 (1) File an application with the Alcoholic Beverage
8 Control Board.

9 (2) Pay a filing fee of one hundred dollars (\$100).

10 (3) Provide to the board a true copy of its current
11 manufacturer license issued in this state.

12 (c) A wine direct shipper permittee:

13 (1) May not ship more wine than is specified in
14 subsection (a).

15 (2) May not ship any wine to any premises licensed
16 by the board.

17 (3) Shall ensure that all containers of wine shipped
18 directly to a resident in this state are conspicuously labeled
19 with the words: "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21
20 OR OLDER REQUIRED FOR DELIVERY."

21 (4) If located outside of this state, shall report,
22 at the direction of the board, the total amount of wine
23 directly shipped to consumers in the state during the
24 preceding calendar year.

25 (5) Whether located within or outside of this state,
26 collect and properly remit all state and local sales or use
27 taxes and excise taxes due on sales to Alabama residents.

1 (6) Shall permit the board or the Department of
2 Revenue to perform an audit of the wine direct shipper
3 permittee's records upon request.

4 (7) Shall be deemed to have consented to the
5 jurisdiction of the board or any law enforcement agency and
6 the Alabama courts concerning enforcement of this section and
7 any related laws or administrative rules.

8 (d) A wine direct shipper permittee may renew its
9 permit with the board by paying annually a renewal fee of
10 fifty dollars (\$50) and providing the board a true copy of its
11 current manufacturer license issued in this state.

12 (e) The board may promulgate rules pursuant to the
13 Alabama Administrative Procedure Act to implement this
14 section.

15 (f) The board may enforce the requirements of this
16 section to suspend or revoke a wine direct shipper permit by
17 the same administrative proceedings that apply to alcoholic
18 beverage licenses, and the board may accept payment of a fine
19 in lieu of suspension or revocation, such payments to be
20 determined by rule promulgated by the board.

21 (g) Shipments of wine direct to consumers in Alabama
22 from persons who do not possess a current wine direct shipper
23 permit pursuant to this section are prohibited, and any person
24 who knowingly makes, participates in, or transports such a
25 shipment is guilty of a Class C misdemeanor.

26 Section 3. Although this bill would have as its
27 purpose or effect the requirement of a new or increased

1 expenditure of local funds, the bill is excluded from further
2 requirements and application under Amendment 621, now
3 appearing as Section 111.05 of the Official ReCompilation of
4 the Constitution of Alabama of 1901, as amended, because the
5 bill defines a new crime or amends the definition of an
6 existing crime.

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