

1 SB352
2 193102-4
3 By Senator Holley
4 RFD: Governmental Affairs
5 First Read: 27-FEB-18

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to alcoholic beverages; to amend Section
12 28-3A-6, Code of Alabama 1975, relating to persons or entities
13 licensed by the Alabama Alcoholic Beverage Control Board as a
14 manufacturer of liquor on its premises, to increase the amount
15 a manufacturer is authorized to sell to a customer for
16 off-premises consumption per day under certain conditions.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Section 28-3A-6, Code of Alabama 1975, is
19 amended to read as follows:

20 "§28-3A-6.

21 "(a) Upon applicant's compliance with the provisions
22 of this chapter and the regulations made thereunder, the board
23 shall issue to applicant a manufacturer license which shall
24 authorize the licensee to manufacture or otherwise distill,
25 produce, ferment, brew, bottle, rectify, or compound alcoholic
26 beverages within this state or for sale or distribution within
27 this state. No person shall manufacture or otherwise distill,

1 produce, ferment, brew, bottle, rectify or compound alcoholic
2 beverages within this state or for sale or distribution within
3 this state or to the state, the board, or any licensee of the
4 board, unless such person or the authorized representative of
5 the person shall be granted a manufacturer license issued by
6 the board.

7 "(b) No manufacturer licensee shall sell any
8 alcoholic beverages direct to any retailer or for consumption
9 on the premises where sold except as specified under
10 subsection (h), nor sell or deliver any such alcoholic
11 beverages in other than original containers approved as to
12 capacity by the board and in accordance with standards of fill
13 prescribed by the U. S. Treasury Department, nor maintain or
14 operate within the state any place or places, other than the
15 place or places covered by the manufacturer license, where
16 alcoholic beverages are sold or where orders are taken.

17 "(c) Each manufacturer licensee shall be required to
18 file with the board, prior to making any sales in Alabama a
19 list of its labels to be sold in Alabama and shall file with
20 the board its federal certificate of label approvals or its
21 certificates of exemption as required by the U. S. Treasury
22 Department. All liquors and wines whose labels have not been
23 registered as herein provided for shall be considered
24 contraband and may be seized by the board or its agents, or
25 any peace officer of the State of Alabama without a warrant
26 and the goods shall be delivered to the board and disposed of
27 as provided by law.

1 "(d) All such manufacturer licensees shall be
2 required to mail to the board prior to the twentieth day of
3 each month a consolidated report of all shipments of alcoholic
4 beverages made to each wholesaler during the preceding month.
5 Such reports shall be in such form and containing such
6 information as the board may prescribe.

7 "(e) Every manufacturer shall keep at its principal
8 place of business within the state, daily permanent records
9 which shall show the quantities of raw materials received and
10 used in the manufacture of alcoholic beverages, and the
11 quantities of alcoholic beverages manufactured and stored, the
12 sale of alcoholic beverages, the quantities of alcoholic
13 beverages stored for hire or transported for hire by or for
14 the licensee and the names and addresses of the purchasers or
15 other recipients thereof.

16 "(f) Every place licensed as a manufacturer shall be
17 subject to inspection by members of the board or by persons
18 duly authorized and designated by the board at any and all
19 times of the day or night as they may deem necessary, for the
20 detection of violations of this chapter, of any law, or of the
21 rules and regulations of the board, or for the purpose of
22 ascertaining the correctness of the records required to be
23 kept by the licensees. The books and records of such licensees
24 shall, at all times, be open to inspection by members of the
25 board, or by persons duly authorized and designated by the
26 board. Members of the board and its duly authorized agents
27 shall have the right, without hindrance, to enter any place

1 which is subject to inspection hereunder, or any place where
2 such records are kept for the purpose of making such
3 inspections and making transcripts thereof.

4 "(g) Licenses issued under this section shall,
5 unless revoked in the manner provided in this chapter, be
6 valid for the license year commencing January 1 of each year.

7 "(h) (1) A manufacturer licensee actively and
8 continuously engaged in the manufacture of alcoholic beverages
9 on the manufacturer's licensed premises in the state may
10 conduct tastings or samplings on the licensed premises, as
11 regulated by the ABC Board except as to quantity and hours of
12 operation, or as otherwise provided by statute, and for that
13 purpose give away or sell alcoholic beverages manufactured
14 there for consumption on only one premises where manufactured.

15 "All alcoholic beverages manufactured and retained
16 on the manufacturer's licensed premises for tasting or
17 sampling shall remain on the premises and be dispensed from a
18 barrel or keg or other original containers.

19 "(2) Notwithstanding subdivision (1), a manufacturer
20 licensee engaged in the manufacture of less than 60,000
21 barrels of beer per year may sell at retail on its licensed
22 premises in the state, for off-premises consumption, beer
23 produced at that licensed premises; provided, however, beer
24 sold for off-premises consumption: May not exceed 288 ounces
25 per customer per day; may not be produced pursuant to a
26 contract with another manufacturer; and shall be sealed,
27 labeled, packaged, and taxed in accordance with state and

1 federal laws and regulations. For purposes of this
2 subdivision, beer produced by a parent, subsidiary, or
3 affiliate of the licensee, or by a contract brewery,
4 regardless of where the beer is produced, shall be included
5 for purposes of calculating the 60,000 barrel limit.

6 "(3) A manufacturer licensee engaged in the
7 ~~manufacture~~ production of liquor on the manufacturer's
8 licensed premises in the state may sell at retail on its
9 licensed premises, for off-premises consumption, liquor
10 manufactured at that licensed premises; provided, however, any
11 licensed manufacturer of liquor on the effective date of the
12 act adding this language, may sell liquor ~~sold~~ for
13 off-premises consumption may not to exceed two 750 ~~milliliters~~
14 milliliter bottles per customer per day except as otherwise
15 provided herein and shall be sealed, labeled, packaged, and
16 taxed in accordance with state and federal laws and
17 regulations. A licensed manufacturer of liquor which has
18 invested at least ten million dollars (\$10,000,000) within 18
19 months of the effective date of the act adding this language
20 at a single location within the State of Alabama and which is
21 manufacturing the official state spirit designated pursuant to
22 Act 2004-97 may sell liquor manufactured on-site for
23 off-premises consumption not to exceed 1.5 liters per customer
24 per day which shall be sealed, labeled, packaged, and taxed in
25 accordance with state and federal laws and regulations. The
26 manufacturer licensee shall keep and maintain records for
27 three years of all sales for off-premises consumption.

1 "(4) Notwithstanding subdivision (1), the board may
2 grant a permit allowing a manufacturer licensee engaged in the
3 ~~manufacture~~ production of less than 50,000 gallons of table
4 wine per year in the state to establish and operate one
5 additional off-site tasting room to be used to conduct
6 tastings or samplings and to sell at retail the licensee's
7 table wine. The board may also grant a single permit allowing
8 an association representing the majority of wineries and grape
9 growers in the state to establish and operate one off-site
10 tasting room to be used to conduct tastings and samplings and
11 to sell at retail table wines produced by wine manufacturer
12 licensees in the state. An applicant for an off-site tasting
13 room permit shall file a written application with the board in
14 such form and containing such information as the board may
15 prescribe, along with proof of consent and approval from the
16 appropriate governing authority in which the off-site tasting
17 room is to be located and a filing fee of fifty dollars (\$50).
18 All state and federal laws and regulations applicable to
19 on-site tasting rooms shall apply to an off-site tasting room.
20 Wine sold at an off-site tasting room for off-premises
21 consumption may not exceed one case of wine per customer per
22 day. For purposes of this subdivision, one case of wine means
23 the equivalent of twelve 750-milliliter bottles of wine.

24 "(i) (1) In addition to the licenses provided for by
25 Chapter 3A of this title, and any county or municipal license,
26 there is levied on the manufacturer of the alcoholic beverages
27 dispensed on the premises the privilege or excise tax imposed

1 on beer by Sections 28-3-184 and 28-3-190; and imposed on
2 table wine by Section 28-7-18; and imposed on liquor by
3 Sections 28-3-200 to 28-3-205, inclusive. Every manufacturer
4 licensee shall file the tax returns, pay the taxes, and
5 perform all obligations imposed on wholesalers at the times
6 and places set forth therein. It shall be unlawful for any
7 manufacturer licensee who is required to pay the taxes so
8 imposed in the first instance to fail or refuse to add to the
9 sale price and collect from the purchaser the required amount
10 of tax, it being the intent and purpose of this provision that
11 each of the taxes levied is in fact a tax on the consumer,
12 with the manufacturer licensee who pays the tax in the first
13 instance acting merely as an agent of the state for the
14 collection and payment of the tax levied by Section 28-3-184;
15 as an agent for the county or municipality for the collection
16 and payment of the tax levied by Section 28-3-190; as an agent
17 for the county or municipality for collection and payment of
18 the tax levied by Section 28-7-18; and as an agent for the
19 state for collection and payment of the tax levied by Sections
20 28-3-200 to 28-3-205, inclusive.

21 "(2) The manufacturer licensee shall keep and
22 maintain all records required to be kept and maintained by
23 manufacturer, wholesaler, and retailer licensees for the tax
24 so levied except that manufacturers are not required to
25 maintain name, address, or other personal demographic
26 information for sales as provided in subsection (h).

1 "(j) A manufacturer licensee engaged in the
2 manufacture of beer in the state may donate and deliver up to
3 two kegs of the manufacturer's beer to a licensed charitable
4 special event operated by or on behalf of a nonprofit
5 organization. Donations shall be taxed in accordance with
6 state and federal laws and regulations. Any beer remaining at
7 the conclusion of the charitable event shall be returned to
8 the manufacturer for disposal.

9 "(k) A manufacturer licensee engaged in the
10 manufacture of table wine in the state may donate and deliver
11 up to two cases of the manufacturer's table wine to a licensed
12 charitable special event operated by or on behalf of a
13 nonprofit organization. Donations shall be taxed in accordance
14 with state and federal laws and regulations. Any table wine
15 remaining at the conclusion of the charitable event shall be
16 returned to the manufacturer for disposal."

17 Section 2. This act shall become effective January
18 1, 2019.

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Senate

Read for the first time and referred to the Senate
committee on Governmental Affairs..... 27-FEB-18

Read for the second time and placed on the calen-
dar..... 06-MAR-18

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Yeas 26
Nays 0

Patrick Harris,
Secretary.