

1 SB271  
2 197236-4  
3 By Senator Jones  
4 RFD: Governmental Affairs  
5 First Read: 09-APR-19

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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 adult residents in wet municipalities  
22 and counties.

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

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

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

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

19  
20 A BILL  
21 TO BE ENTITLED  
22 AN ACT  
23

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

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

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

18 "§28-1-4.

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

23 "(b) ~~It~~ Except as provided in subsection (c), it  
24 shall be unlawful for common or permit carriers, operators of  
25 trucks, buses or other conveyances or out-of-state  
26 manufacturers or suppliers to make delivery of any alcoholic  
27 beverage from ~~without~~ outside the State of Alabama to any

1 person, association or corporation within the state, except to  
2 the Alabama Alcoholic Beverage Control Board and to  
3 manufacturers, importers, wholesalers and warehouses licensed  
4 by the Alabama Alcoholic Beverage Control Board to receive the  
5 alcoholic beverages so delivered.

6 "(c) A delivery service carrier may transport and  
7 deliver shipments of wine or beer, at the direction of a wine  
8 direct shipper permittee and in accordance with Section  
9 28-3A-6.1, to a resident of a wet county or wet municipality  
10 who is at least 21 years of age. A delivery service carrier:

11 "(1) Shall be responsible for ensuring the resident  
12 receiving the shipment is at least 21 years of age.

13 "(2) Shall not be required to maintain in the  
14 vehicle or within the possession of the driver of the vehicle  
15 a bill of lading, consignment, or any other documentary  
16 evidence of the cargo being transported other than information  
17 available on the package shipping label.

18 ~~"(c)(d) Any violation of subsection (a) of this~~  
19 ~~section (b) shall be a misdemeanor, punishable as provided in~~  
20 ~~paragraph subdivision (1) of subsection (b) of Section~~  
21 ~~28-3A-25.~~

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

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

27 §28-3A-6.1.

1 (a) For purposes of this section, the following  
2 words have the following meanings:

3 (1) CRAFT BREWERY. A manufacturer of beer licensed  
4 in this state that produces less than 1,500 barrels of beer  
5 per year.

6 (2) CRAFT WINERY. A manufacturer of table wine  
7 licensed in this state that produces less than 24,000 gallons  
8 of table wine per year.

9 (b) Notwithstanding any other provision of this  
10 title, a craft brewery or craft winery that obtains a direct  
11 shipper permit, as provided in this section, may ship up to  
12 the following amounts, per household, on an annual basis:

13 (1) For a craft brewery, 24 cases of its beer. For  
14 purposes of this subdivision, one case may not exceed 288  
15 ounces of beer.

16 (2) For a craft winery, 24 cases of its table wine.  
17 For purposes of this subdivision, one case may not exceed nine  
18 liters of table wine.

19 (c) The beer or wine must be shipped directly to a  
20 resident of Alabama who is at least 21 years of age for the  
21 resident's personal use and not for resale.

22 (d) In order to receive a permit, the applicant for  
23 a direct shipper permit shall do all of the following:

24 (1) File an application with the Alcoholic Beverage  
25 Control Board.

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

1           (3) Provide to the board a true copy of its current  
2 manufacturer license.

3           (e) A direct shipper permittee:

4           (1) May not ship more wine than is specified in  
5 subsection (b).

6           (2) May not ship any beer or wine to any premises  
7 licensed by the board.

8           (3) May not ship any beer or wine to any resident  
9 located in a dry county or dry municipality.

10          (4) Shall ensure that all containers of beer or wine  
11 shipped directly to a resident in this state are conspicuously  
12 labeled with the words: "CONTAINS ALCOHOL: SIGNATURE OF PERSON  
13 AGE 21 OR OLDER REQUIRED FOR DELIVERY."

14          (5) Shall report, at the direction of the board, the  
15 total amount of beer or wine directly shipped to consumers in  
16 the state during the preceding calendar year.

17          (6) Shall collect and properly remit all state and  
18 local sales or use taxes and excise taxes due on sales to  
19 Alabama residents.

20          (7) Shall permit the board or the Department of  
21 Revenue to perform an audit of the direct shipper permittee's  
22 records upon request.

23          (8) Shall be deemed to have consented to the  
24 jurisdiction of the board or any law enforcement agency and  
25 the Alabama courts concerning enforcement of this section and  
26 any related laws or rules.

1 (f) A direct shipper permittee may renew its permit  
2 with the board by paying annually a renewal fee of fifty  
3 dollars (\$50) and providing the board a true copy of its  
4 current manufacturer license issued in this state.

5 (g) The board may adopt rules pursuant to the  
6 Alabama Administrative Procedure Act to implement this  
7 section.

8 (h) The board may enforce the requirements of this  
9 section to suspend or revoke a direct shipper permit by the  
10 same administrative proceedings that apply to alcoholic  
11 beverage licenses, and the board may accept payment of a fine  
12 in lieu of suspension or revocation, such payments to be  
13 determined by rule adopted by the board.

14 (i) Shipments of beer or wine direct to consumers in  
15 Alabama from persons who do not possess a current direct  
16 shipper permit pursuant to this section are prohibited, and  
17 any person who knowingly makes, participates in, or transports  
18 such a shipment is guilty of a Class C misdemeanor.

19 Section 3. The Alcoholic Beverages Control Board may  
20 not prohibit the purchase or delivery of alcoholic beverages  
21 to a consumer by telephone, Internet, or any other electronic  
22 method.

23 Section 4. The provisions of this act are not  
24 severable. If any part of this act is declared invalid or  
25 unconstitutional, the entire act shall be declared invalid.

26 Section 5. 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 6. 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.