

1 HB365
2 204247-2
3 By Representatives Collins, Ellis, Simpson, Fridy, Rowe, Moore
4 (P), Baker, Estes, Wadsworth, Marques, Blackshear, Warren,
5 Drummond, Brown (C), Rafferty, McCampbell, Daniels, Lovvorn,
6 Whitt, Shiver, Meadows, Sullivan, Wilcox, Oliver, Lipscomb,
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8 Gaston, Faust, England and Brown (K)
9 RFD: Economic Development and Tourism
10 First Read: 03-MAR-20

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8 SYNOPSIS: Under existing law, a producer of alcoholic
9 beverages may only sell its product to distributors
10 or wholesalers, or directly to consumers in limited
11 quantities at its licensed premises.

12 This bill would allow a licensed wine
13 manufacturer to obtain a wine direct shipper permit
14 from the Alcoholic Beverage Control Board to allow
15 the permittee to ship limited quantities of table
16 wine directly to Alabama residents who are at least
17 21 years of age for their personal use.

18 This bill would impose certain duties on an
19 Alabama winery that ships wine directly to
20 consumers, including the collection and remittance
21 of certain taxes.

22 Also under existing law, common carriers may
23 only make delivery of alcoholic beverages to the
24 Alcoholic Beverage Control Board or licensees of
25 the board.

26 This bill would allow common carriers to
27 make delivery of alcoholic beverages to residents

1 who are at least 21 years of age, and places
2 certain requirements on a common carrier making a
3 delivery of alcoholic beverages.

4 This bill would provide for the permitting
5 process and establish certain restrictions and
6 requirements for wine direct shipment permittees.

7 This bill would require common carriers to
8 report certain information regarding shipments and
9 deliveries of alcoholic beverages made directly to
10 consumers to the Alcoholic Beverage Control Board
11 and the Department of Revenue.

12 This bill would provide that a person who
13 ships wine directly to a resident without a permit
14 is guilty of a Class C misdemeanor. This bill would
15 also provide for revocation of a direct wine
16 shipper permit or imposition of fines by the
17 Alcoholic Beverage Control Board for violations of
18 the terms of that permit.

19 This bill would authorize the Alcoholic
20 Beverage Control Board to adopt rules.

21 Amendment 621 of the Constitution of Alabama
22 of 1901, now appearing as Section 111.05 of the
23 Official Recompilation of the Constitution of
24 Alabama of 1901, as amended, prohibits a general
25 law whose purpose or effect would be to require a
26 new or increased expenditure of local funds from
27 becoming effective with regard to a local

1 governmental entity without enactment by a 2/3 vote
2 unless: it comes within one of a number of
3 specified exceptions; it is approved by the
4 affected entity; or the Legislature appropriates
5 funds, or provides a local source of revenue, to
6 the entity for the purpose.

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

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT
18

19 Relating to wine; to amend Section 28-1-4, Code of
20 Alabama 1975; to add Section 28-3A-6.1 to the Code of Alabama
21 1975; to authorize common carriers to make delivery of
22 alcoholic beverages to Alabama residents; to further provide
23 for restrictions on a common carrier making a delivery of
24 alcoholic beverages to an Alabama resident; to provide for a
25 direct wine shipper permit that authorizes a licensed wine
26 manufacturer or a manufacturer who holds a federal basic wine
27 manufacturing permit to ship its table wine directly to

1 Alabama residents who are at least 21 years of age for their
2 personal use; to require these permittees to collect and remit
3 certain taxes; to provide for criminal penalties for certain
4 violations, including the direct shipment of wine without a
5 permit; to authorize the Alcoholic Beverage Control Board to
6 adopt rules; and in connection therewith could have as its
7 purpose or effect the requirement of a new or increased
8 expenditure of local funds within the meaning of Amendment 621
9 of the Constitution of Alabama of 1901, now appearing as
10 Section 111.05 of the Official ReCompilation of the
11 Constitution of Alabama of 1901, as amended.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

15 "§28-1-4.

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

20 ~~"(b) (a) It shall be unlawful for Any common or~~
21 ~~permit carriers, operators of trucks, buses or other~~
22 ~~conveyances or out-of-state manufacturers or suppliers to make~~
23 ~~carrier that ships or makes delivery of any alcoholic beverage~~
24 ~~from without the State of Alabama to any person, association~~
25 ~~or corporation within the state, except to the Alabama~~
26 ~~Alcoholic Beverage Control Board and to manufacturers,~~
27 ~~importers, wholesalers and warehouses licensed by the Alabama~~

1 ~~Alcoholic Beverage Control Board to receive the alcoholic~~
2 ~~beverages so delivered~~ within the state is not required to
3 maintain in the vehicle a bill of lading, consignment, or any
4 other documentary evidence of the cargo being transported
5 other than information available on the package shipping
6 label.

7 "(b) (1) A common carrier that delivers alcoholic
8 beverages to a resident of the state shall confirm that any
9 individual physically receiving a shipment of alcoholic
10 beverages is at least 21 years of age and shall require the
11 individual's signature before releasing the shipment to that
12 individual. Any failure by a common carrier, upon receipt of
13 the shipment, to verify the age of the individual receiving
14 the alcoholic beverages may result in the suspension of the
15 common carrier's license to operate in the state or the
16 imposition of any other penalty the relevant licensing
17 authority in the state is authorized to impose.

18 "(2) A common carrier that ships or delivers
19 alcoholic beverages to a resident of the state shall maintain
20 a copy of the signature of the individual who physically
21 received the shipment for at least three years following the
22 date of completion of that shipment or delivery, and, upon
23 request, shall provide a copy of that signature to the Tax and
24 Trade Practices Division of the board and the Sales and Use
25 Tax Division of the Department of Revenue. Failure by a common
26 carrier to maintain a copy of the signature of the individual
27 receiving the alcoholic beverages pursuant to this section, or

1 failure to provide a copy of that signature to the board or
2 the Department of Revenue upon request, may result in the
3 suspension of the common carrier's license to operate in the
4 state or the imposition of any other penalty the relevant
5 licensing authority in the state is authorized to impose.

6 "(c) A common carrier that delivers alcoholic
7 beverages to a resident of the state shall file quarterly
8 reports with the Tax and Trade Practices Division of the board
9 and the Sales and Use Tax Division of the Department of
10 Revenue of all alcoholic beverage shipments and deliveries
11 during the reporting period that report all of the following
12 with regard to each shipment and delivery:

13 "(1) The name and business address of the person who
14 directed the common carrier to ship wine.

15 "(2) The weight of the shipment.

16 "(3) The name and address of the consumer to whom
17 the wine was shipped.

18 "(4) A unique tracking number.

19 "(5) The date of delivery.

20 "(d) Reports made under subsection (c) shall be
21 considered public records for purposes of Article 3,
22 commencing with Section 36-12-40, of Chapter 12 of Title 36,
23 and shall be made available to law enforcement officers.

24 "(e) A willful failure by a common carrier to comply
25 with the reporting requirements in this section which
26 continues for more than 90 days after receiving notice by the
27 board or Department of Revenue of the failure may result in

1 the suspension of the common carrier's license to operate in
2 the state or the imposition of any other penalty the relevant
3 licensing authority in the state is authorized to impose.

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

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

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

12 §28-3A-6.1. Direct shipment of wine by a
13 manufacturer.

14 (a) Any person licensed in this state as a wine
15 manufacturer or who holds a federal basic wine manufacturing
16 permit may obtain a wine direct shipper permit from the board
17 as provided in this section, and may ship annually up to 12
18 cases of wine to any one Alabama resident in a 12-month
19 period, each case not exceeding nine liters of wine. The wine
20 shall be shipped directly to a resident of Alabama who is at
21 least 21 years of age for the resident's personal use and not
22 for resale.

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

26 (1) File an application with the board.

27 (2) Pay a filing fee of two hundred dollars (\$200).

1 (3) Provide to the board a true copy of its current
2 manufacturer license issued in this state or its federal basic
3 wine manufacturing permit.

4 (c) A wine direct shipper permittee:

5 (1) May not ship more wine than is specified in
6 subsection (a) to any one consumer in a 12-month period.

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

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

13 (4) Shall report to the board the total amount of
14 wine directly shipped to consumers in the state during the
15 preceding calendar year, including the amount of wine shipped
16 to each residential address in the state.

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

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

23 (7) Shall obtain from the customer an attestation
24 that he or she is at least 21 years of age at the time the
25 order is placed.

26 (8) Shall be deemed to have consented to the
27 jurisdiction of the board or any law enforcement agency and

1 the Alabama courts concerning enforcement of this section and
2 any related laws or administrative rules.

3 (d) A wine direct shipper permittee may renew its
4 permit with the board by paying annually a renewal fee of one
5 hundred dollars (\$100) and providing the board a true copy of
6 its current manufacturer license issued in this state.

7 (e) The board may adopt rules pursuant to the
8 Administrative Procedure Act to implement this section.

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

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

20 Section 3. Although this bill would have as its
21 purpose or effect the requirement of a new or increased
22 expenditure of local funds, the bill is excluded from further
23 requirements and application under Amendment 621, now
24 appearing as Section 111.05 of the Official Recompilation of
25 the Constitution of Alabama of 1901, as amended, because the
26 bill defines a new crime or amends the definition of an
27 existing crime.

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