

1 SB321  
2 209909-4  
3 By Senator Singleton  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 11-MAR-21

8 SYNOPSIS: Under existing law, at its premises for  
9 off-premises consumption, a licensed brewery that  
10 produces less than 60,000 barrels of beer per year  
11 may sell at retail up to 288 ounces of beer per  
12 customer per day and a licensed distillery may sell  
13 at retail up to 2.25 liters of liquor per customer  
14 per day. Beer produced by a contract brewery is  
15 included for purposes of calculating whether a  
16 brewery has exceeded the 60,000 barrel limit.

17 This bill would allow a brewery to sell up  
18 to 864 ounces of beer per customer per day and a  
19 distillery to sell up to 4.5 liters of liquor per  
20 customer per day for off premises consumption.

21 This bill would also provide that when  
22 calculating whether a licensed brewery produces  
23 less than 60,000 barrels annually, only beer  
24 provided by a contract brewery which is produced  
25 exclusively for the brewery shall be considered.

27 A BILL

1 TO BE ENTITLED

2 AN ACT

3  
4 Relating to alcoholic beverages; to amend Section  
5 28-3A-6, Code of Alabama 1975, to revise the daily limit on  
6 how much beer and liquor may be sold by certain breweries and  
7 distilleries to customers for off-premises consumption, and to  
8 provide further for calculating which breweries qualify to  
9 sell beer at their breweries for off-premises consumption.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

13 "§28-3A-6.

14 "(a) Upon the applicant's compliance with this  
15 chapter and the rules adopted under this chapter, the board  
16 shall issue to the applicant a manufacturer license which  
17 ~~shall authorize~~ authorizes the licensee to manufacture or  
18 otherwise distill, produce, ferment, brew, bottle, rectify, or  
19 compound alcoholic beverages within this state for sale or  
20 distribution within this state. No person shall manufacture or  
21 otherwise distill, produce, ferment, brew, bottle, rectify, or  
22 compound alcoholic beverages within this state or for sale or  
23 distribution within this state or to the state, the board, or  
24 any licensee of the board, unless the person or the authorized  
25 representative of the person shall be granted a manufacturer  
26 license issued by the board.

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

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

22           "(d) All manufacturer licensees shall be required to  
23 mail to the board prior to the twentieth day of each month a  
24 consolidated report of all shipments of alcoholic beverages  
25 made to each wholesaler during the preceding month. ~~Such~~ The  
26 reports shall be in ~~such~~ the form and containing ~~such~~  
27 information as the board may prescribe.

1           "(e) Every manufacturer shall keep at its principal  
2 place of business within the state, daily permanent records  
3 ~~which shall~~ that show the quantities of raw materials received  
4 and used in the manufacture of alcoholic beverages, and the  
5 quantities of alcoholic beverages manufactured and stored, the  
6 sale of alcoholic beverages, the quantities of alcoholic  
7 beverages stored for hire or transported for hire by or for  
8 the licensee, and the names and addresses of the purchasers or  
9 other recipients thereof.

10           "(f) Every place licensed as a manufacturer shall be  
11 subject to inspection by members of the board or by ~~persons~~  
12 duly individuals authorized and designated by the board at any  
13 ~~and all times~~ time of the day or night as they may deem  
14 necessary, for the detection of violations of this chapter, of  
15 any law, or of the rules of the board, or for the purpose of  
16 ascertaining the correctness of the records required to be  
17 kept by the licensees. The books and records of ~~such~~ licensees  
18 shall, at all times, be open to inspection by members of the  
19 board, or by ~~persons~~ duly individuals authorized and  
20 designated by the board. Members of the board and its duly  
21 authorized agents, without hindrance, may enter any place that  
22 is subject to inspection hereunder or any place where ~~such~~  
23 records are kept for the purpose of making ~~such~~ inspections  
24 and making transcripts thereof.

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

1           "(h) (1) A manufacturer licensee actively and  
2 continuously engaged in the manufacture of alcoholic beverages  
3 on the manufacturer's licensed premises in the state may  
4 conduct tastings or samplings on the licensed premises, as  
5 regulated by the board except as to quantity and hours of  
6 operation, or as otherwise provided by ~~statute~~ law, and for  
7 that purpose may give away or sell alcoholic beverages  
8 manufactured there for consumption on only one premises where  
9 manufactured. All alcoholic beverages manufactured and  
10 retained on the manufacturer's licensed premises for tasting  
11 or sampling shall remain on the premises and be dispensed from  
12 a barrel or keg or other original containers.

13           "(2) Notwithstanding subdivision (1), a manufacturer  
14 licensee engaged in the manufacture of less than 60,000  
15 barrels of beer per year may sell at retail on its licensed  
16 premises in the state, for off-premises consumption, beer  
17 produced at that licensed premises; provided, however, beer  
18 sold for off-premises consumption: May not exceed ~~288~~ 864  
19 ounces per customer per day; may not be produced pursuant to a  
20 contract with another manufacturer, and shall be sealed,  
21 labeled, packaged, and taxed in accordance with state and  
22 federal laws and regulations. For purposes of this  
23 subdivision, beer produced by a parent, subsidiary, or  
24 affiliate of the licensee, or by a contract brewery  
25 exclusively for the manufacturer, regardless of where the beer  
26 is produced, shall be included for purposes of calculating the  
27 60,000 barrel limit.

1           "(3) A manufacturer licensee engaged in the  
2 manufacture of liquor on the manufacturer's licensed premises  
3 in the state may sell at retail on its licensed premises, for  
4 off-premises consumption, liquor manufactured at that licensed  
5 premises; provided, however, liquor sold for off-premises  
6 consumption may not exceed ~~2.25~~ 4.5 liters per customer per  
7 day and shall be sealed, labeled, packaged, and taxed in  
8 accordance with state and federal laws and regulations. The  
9 manufacturer licensee shall keep and maintain records for  
10 three years of all sales for off-premises consumption.

11           "(4) Notwithstanding subdivision (1), the board may  
12 grant a permit allowing a manufacturer licensee engaged in the  
13 manufacture of less than 50,000 gallons of table wine per year  
14 in the state to establish and operate one additional off-site  
15 tasting room to be used to conduct tastings or samplings and  
16 to sell at retail the licensee's table wine. The board may  
17 also grant a single permit allowing an association  
18 representing the majority of wineries and grape growers in the  
19 state to establish and operate one off-site tasting room to be  
20 used to conduct tastings and samplings and to sell at retail  
21 table wines produced by wine manufacturer licensees in the  
22 state. An applicant for an off-site tasting room permit shall  
23 file a written application with the board in ~~such~~ the form and  
24 containing ~~such~~ information as the board may prescribe, along  
25 with proof of consent and approval from the appropriate  
26 governing authority in which the off-site tasting room is to  
27 be located and a filing fee of fifty dollars (\$50). All state

1 and federal laws and regulations applicable to on-site tasting  
2 rooms shall apply to an off-site tasting room. Wine sold at an  
3 off-site tasting room for off-premises consumption may not  
4 exceed one case of wine per customer per day. For purposes of  
5 this subdivision, one case of wine means the equivalent of  
6 twelve 750-milliliter bottles of wine.

7 "(i) (1) In addition to the licenses provided for by  
8 this chapter, and any county or municipal license, there is  
9 levied on the manufacturer of the alcoholic beverages  
10 dispensed on the premises the privilege or excise tax imposed  
11 on beer by Sections 28-3-184 and 28-3-190; and imposed on  
12 table wine by Section 28-7-18; and imposed on liquor by  
13 Sections 28-3-200 to 28-3-205, inclusive. Taxes on beer shall  
14 be levied at the time the beer is allocated by the beer  
15 manufacturer for the purpose of retail sale and not at the  
16 time the beer is dispensed for consumption. Every manufacturer  
17 licensee shall file the tax returns, pay the taxes, and  
18 perform all obligations imposed on wholesalers at the times  
19 and places set forth therein. It shall be unlawful for any  
20 manufacturer licensee who is required to pay the taxes so  
21 imposed in the first instance to fail or refuse to add to the  
22 sale price and collect from the purchaser the required amount  
23 of tax, it being the intent and purpose of this provision that  
24 each of the taxes levied is in fact a tax on the consumer,  
25 with the manufacturer licensee who pays the tax in the first  
26 instance acting merely as an agent of the state for the  
27 collection and payment of the tax levied by Section 28-3-184;

1 as an agent for the county or municipality for the collection  
2 and payment of the tax levied by Section 28-3-190; as an agent  
3 for the county or municipality for collection and payment of  
4 the tax levied by Section 28-7-18; and as an agent for the  
5 state for collection and payment of the tax levied by Sections  
6 28-3-200 to 28-3-205, inclusive.

7 "(2) The manufacturer licensee shall keep and  
8 maintain all records required to be kept and maintained by  
9 manufacturer, wholesaler, and retailer licensees for the tax  
10 so levied except that manufacturers are not required to  
11 maintain name, address, or other personal demographic  
12 information for sales as provided in subsection (e).

13 "(j) A manufacturer licensee engaged in the  
14 manufacture of beer in the state may donate and deliver up to  
15 31 gallons of the manufacturer's beer to a licensed nonprofit  
16 special event operated by or on behalf of a nonprofit  
17 organization. Donations shall be taxed in accordance with  
18 state and federal laws and regulations. Any beer remaining at  
19 the conclusion of the nonprofit event shall be returned to the  
20 manufacturer for disposal.

21 "(k) A manufacturer licensee engaged in the  
22 manufacture of table wine in the state may donate and deliver  
23 up to two cases of the manufacturer's table wine to a licensed  
24 nonprofit special event operated by or on behalf of a  
25 nonprofit organization. Donations shall be taxed in accordance  
26 with state and federal laws and regulations. Any table wine

1 remaining at the conclusion of the nonprofit event shall be  
2 returned to the manufacturer for disposal."

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