

1 HB176
2 172929-6
3 By Representatives Daniels, Martin, Williams (JD), Lindsey,
4 Melton, Holmes (M), Brown, Wingo, Fincher, McClammy,
5 McCampbell, Beech, Knight, Lawrence, Forte, England, South,
6 Carns, Ford, Faulkner, Drake, Grimsley, Greer, Hammon, Buskey,
7 Shiver, Collins, Coleman, Baker, McMillan, Boothe, Moore (M),
8 Givan, Robinson, Faust, Patterson, Nordgren, Scott, Whorton
9 (I), Ball, Whorton (R), Williams (P), Sanderford, Hall, Todd
10 and Harper
11 RFD: Economic Development and Tourism
12 First Read: 11-FEB-16

1
2 ENROLLED, An Act,

3 Relating to alcoholic beverages; to amend Sections
4 28-3-1, 28-3A-6, and 28-4A-3 of the Code of Alabama 1975, to
5 allow a licensed brewery manufacturing less than 60,000
6 barrels per year to sell at retail up to 288 ounces of its
7 beer per day to a customer for off-premises consumption; to
8 allow a licensed brewpub to sell at retail up to 288 ounces of
9 its beer per day to a customer for off-premises consumption;
10 to specify that beer sold by a brewery or brewpub for off-site
11 consumption must be sealed, packaged, labeled, and taxed in
12 accordance with current rules; to allow a licensed brewery or
13 brewpub to deliver up to two donated kegs of its beer to a
14 licensed charitable event; and to delete the restriction on
15 brewpubs from locating only in historic buildings, historic
16 districts, economically distressed areas, or those wet
17 counties in the state in which beer was brewed for public
18 consumption prior to Prohibition.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 28-3-1, 28-3A-6, and 28-4A-3 of
21 the Code of Alabama 1975, are amended to read as follows:

22 "§28-3-1.

23 ~~"The following words or phrases, whenever they~~
24 ~~appear in this chapter, and in Alcoholic Beverage Licensing~~
25 ~~Code, being Act No. 80-529, Acts of Alabama, 1980, as amended,~~

1 ~~appearing as Chapter 3A, Title 28, as amended, and the Alabama~~
2 ~~Table Wine Act, being Act 80-382, Acts of Alabama 1980, as~~
3 ~~amended, appearing as Chapter 7, Title 28, as amended, unless~~
4 ~~the context clearly indicates otherwise, shall have the~~
5 ~~meaning ascribed to them in this section~~ As used in this
6 title, the following words shall have the following meanings
7 unless the context clearly indicates otherwise:

8 "(1) ALCOHOLIC BEVERAGES. Any alcoholic, spirituous,
9 vinous, fermented, or other alcoholic beverage, or combination
10 of liquors and mixed liquor, a part of which is spirituous,
11 vinous, fermented, or otherwise alcoholic, and all drinks or
12 drinkable liquids, preparations or mixtures intended for
13 beverage purposes, which contain one-half of one percent or
14 more of alcohol by volume, and shall include liquor, beer, and
15 wine.

16 "(2) ASSOCIATION. A partnership, limited
17 partnership, or any form of unincorporated enterprise owned by
18 two or more persons.

19 "(3) BEER, or MALT OR BREWED BEVERAGES. Except as
20 otherwise provided in this subdivision, any beer, lager beer,
21 ale, porter, malt or brewed beverage, or similar fermented
22 malt liquor containing one-half of one percent or more of
23 alcohol by volume and not in excess of thirteen and
24 nine-tenths percent by volume, by whatever name the same may
25 be called.

"(4) BOARD. The Alcoholic Beverage Control Board.

"(5) CARTON. The package or container or containers in which alcoholic beverages are originally packaged for shipment to market by the manufacturer or its designated representatives or the importer.

"(6) CIDER. A fermented alcoholic beverage made from apple juice and containing not more than 8.5 percent alcohol by volume.

"(7) CONTAINER. The single bottle, can, keg, bag, or other receptacle, not a carton, in which alcoholic beverages are originally packaged for the market by the manufacturer or importer and from which the alcoholic beverage is consumed by or dispensed to the public.

"(8) CLUB.

"a. Class I. A corporation or association organized or formed in good faith by authority of law and which must have at least 150 paid-up members. It must be the owner, lessee, or occupant of an establishment operated solely for the objects of a national, social, patriotic, political, or athletic nature or the like, but not for pecuniary gain, and the property as well as the advantages of which, belong to all the members and which maintains an establishment provided with special space and accommodations where, in consideration of payment, food with or without lodging is habitually served. The club shall hold regular meetings, continue its business

1 through officers regularly elected, admit members by written
2 application, investigation, and ballot and charge and collect
3 dues from elected members.

4 "b. Class II. A corporation or association organized
5 or formed in good faith by authority of law and which must
6 have at least 100 paid-up members. It must be the owner,
7 lessee, or occupant of an establishment operated solely for
8 the objects of a national, social, patriotic, political, or
9 athletic nature or the like. The club shall hold regular
10 meetings, continue its business through officers regularly
11 elected, admit members by written application, investigation
12 and ballot and charge and collect dues from elected members.

13 "(9) CORPORATION. A corporation or joint stock
14 association organized under the laws of this state, the United
15 States, or any other state, territory or foreign country, or
16 dependency.

17 "(10) DRY COUNTY. Any county which by a majority of
18 those voting voted in the negative in an election heretofore
19 held under the applicable statutes at the time of the election
20 or may hereafter vote in the negative in an election or
21 special method referendum hereafter held in accordance with
22 the provisions of Chapter 2 of this title, or held in
23 accordance with the provisions of any act hereafter enacted
24 permitting such election.

1 "(11) DRY MUNICIPALITY. Any municipality within a
2 wet county which has, by its governing body or by a majority
3 of those voting in a municipal election heretofore held in
4 accordance with the provisions of Section 28-2-22, or in a
5 municipal option election heretofore or hereafter held in
6 accordance with the provisions of Act 84-408, Acts of Alabama
7 1984, appearing as Chapter 2A of this title, or any act
8 hereafter enacted permitting municipal option election, voted
9 to exclude the sale of alcoholic beverages within the
10 corporate limits of the municipality.

11 "(12) GENERAL WELFARE PURPOSES.

12 "a. The administration of public assistance as set
13 out in Sections 38-2-5 and 38-4-1;

14 "b. Services, including supplementation and
15 supplementary services under the federal Social Security Act,
16 to or on behalf of persons to whom such public assistance may
17 be given under Sections 38-2-5 and 38-4-1;

18 "c. Service to and on behalf of dependent, neglected
19 or delinquent children; and

20 "d. Investigative and referral services to and on
21 behalf of needy persons.

22 "(13) HEARING COMMISSION. A body appointed by the
23 board to hear and decide all contested license applications
24 and all disciplinary charges against any licensee for
25 violation of this title or the regulations of the board.

1 "(14) HOTEL. A building or buildings held out to the
2 public for housing accommodations of travelers or transients,
3 and shall include motel, but shall not include a rooming house
4 or boarding house.

5 "(15) IMPORTER. Any person, association or
6 corporation engaged in importing alcoholic beverages, liquor,
7 wine, or beer, manufactured outside of the United States of
8 America into this state or for sale or distribution in this
9 state, or to the board or to a licensee of the board.

10 "(16) LIQUOR. Any alcoholic, spirituous, vinous,
11 fermented, or other alcoholic beverage, or combination of
12 liquors and mixed liquor, a part of which is spirituous,
13 fermented, vinous or otherwise alcoholic, and all drinks or
14 drinkable liquids, preparations or mixtures intended for
15 beverage purposes, which contain one-half of one percent or
16 more of alcohol by volume, except beer and table wine.

17 "(17) LIQUOR STORE. A liquor store operated by the
18 board, where alcoholic beverages other than beer are
19 authorized to be sold in unopened containers.

20 "(18) MANUFACTURER. Any person, association, or
21 corporation engaged in the producing, bottling, manufacturing,
22 distilling, rectifying, or compounding of alcoholic beverages,
23 liquor, beer, or wine in this state or for sale or
24 distribution in this state or to the board or to a licensee of
25 the board.

1 "(19) MEAD. An alcoholic beverage produced by
2 fermenting a solution of honey and water with grain mash and
3 containing not more than 18 percent alcohol by volume.

4 "(20) MINOR. Any person under 21 years of age,
5 ~~except a person 19 years of age or older prior to October 1,~~
6 ~~1985, is not a minor;~~ provided, however, in the event Section
7 28-1-5, shall be repealed or otherwise shall be no longer in
8 effect, thereafter the provisions of Section 26-1-1, shall
9 govern.

10 "(21) MUNICIPALITY. Any incorporated city or town of
11 this state to include its police jurisdiction.

12 "(22) PERSON. Every natural person, association, or
13 corporation. Whenever used in a clause prescribing or imposing
14 a fine or imprisonment, or both, such term as applied to
15 association shall mean the partners or members thereof and as
16 applied to corporation shall mean the officers thereof, except
17 as to incorporated clubs the term person shall mean such
18 individual or individuals who, under the bylaws of such clubs,
19 shall have jurisdiction over the possession and sale of liquor
20 therein.

21 "(23) POPULATION. The population according to the
22 last preceding or any subsequent decennial census of the
23 United States, except where a municipality is incorporated
24 subsequent to the last census, in which event, its population
25 until the next decennial census shall be the population of the

1 municipality as determined by the judge of probate of the
2 county as the official population on the date of its
3 incorporation.

4 "(24) RESTAURANT. A reputable place licensed as a
5 restaurant, operated by a responsible person of good
6 reputation and habitually and principally used for the purpose
7 of preparing and serving meals for the public to consume on
8 the premises.

9 "(25) MEAL. A diversified selection of food some of
10 which is not susceptible of being consumed in the absence of
11 at least some articles of tableware and which cannot be
12 conveniently consumed while one is standing or walking about.

13 "(26) RETAILER. Any person licensed by the board to
14 engage in the retail sale of any alcoholic beverages to the
15 consumer.

16 "(27) SALE or SELL. Any transfer of liquor, wine or
17 beer for a consideration, and any gift in connection with, or
18 as a part of, a transfer of property other than liquor, wine
19 or beer for a consideration.

20 "(28) SELLING PRICE. The total marked-up price of
21 spirituous or vinous liquors sold by the board, exclusive of
22 taxes levied thereon.

23 "(29) UNOPENED CONTAINER. A container containing
24 alcoholic beverages, which has not been opened or unsealed

1 subsequent to filling and sealing by the manufacturer or
2 importer.

3 "(30) WET COUNTY. Any county which by a majority of
4 those voting voted in the affirmative in an election
5 heretofore held in accordance with the statutes applicable at
6 the time of the election or may hereafter vote in the
7 affirmative in an election or special method referendum held
8 in accordance with the provisions of Chapter 2 of this title,
9 or other statutes applicable at the time of the election.

10 "(31) WET MUNICIPALITY. Any municipality in a dry
11 county which by a majority of those voting voted in the
12 affirmative in a municipal option election heretofore or
13 hereafter held in accordance with the provisions of Act
14 84-408, Acts of Alabama 1984, appearing as Chapter 2A of this
15 title, as amended, or any act hereafter enacted permitting
16 municipal option election, or any municipality which became
17 wet by vote of the governing body or by the voters of the
18 municipality heretofore or hereafter held under the special
19 method referendum provisions of Section 28-2-22, or as
20 hereafter provided, where the county has become dry subsequent
21 to the elected wet status of the municipality.

22 "(32) WHOLESALER. Any person licensed by the board
23 to engage in the sale and distribution of table wine and beer,
24 or either of them, within this state, at wholesale only, to be
25 sold by export or to retail licensees or other wholesale

1 licensees or others within this state lawfully authorized to
2 sell table wine and beer, or either of them, for the purpose
3 of resale only.

4 "(33) WINE. All beverages made from the fermentation
5 of fruits, berries, or grapes, with or without added spirits,
6 and produced in accordance with the laws and regulations of
7 the United States, containing not more than 24 percent alcohol
8 by volume, and shall include all sparkling wines, carbonated
9 wines, special natural wines, rectified wines, vermouths,
10 vinous beverages, vinous liquors, and like products, including
11 restored or unrestored pure condensed juice.

12 "(34) TABLE WINE. Except as otherwise provided in
13 this subdivision, any wine containing not more than 24 percent
14 alcohol by volume. Table wine does not include any wine
15 containing more than sixteen and one-half percent alcohol by
16 volume that is made with herbs or flavors, except vermouth, or
17 is an imitation or other than standard wine. Table wine is not
18 liquor, spirituous, or vinous.

19 "(35) BRANDY. All beverages which are an alcoholic
20 distillate from the fermented juice, mash, or wine of fruit,
21 or from the residue thereof, produced in such manner that the
22 distillate possesses the taste, aroma, and characteristics
23 generally attributed to the beverage, as bottled at not less
24 than 80 degree proof.

1 "(36) KEG. A pressurized factory sealed container
2 with a capacity equal to or greater than five US gallons, from
3 which beer is withdrawn by means of an external tap.

4 "§28-3A-6.

5 "(a) Upon applicant's compliance with the provisions
6 of this chapter and the regulations made thereunder, the board
7 shall issue to applicant a manufacturer license which shall
8 authorize the licensee to manufacture or otherwise distill,
9 produce, ferment, brew, bottle, rectify, or compound alcoholic
10 beverages within this state or for sale or distribution within
11 this state. No person shall manufacture or otherwise distill,
12 produce, ferment, brew, bottle, rectify or compound alcoholic
13 beverages within this state or for sale or distribution within
14 this state or to the state, the board, or any licensee of the
15 board, unless such person or the authorized representative of
16 the person shall be granted a manufacturer license issued by
17 the board.

18 "(b) No manufacturer licensee shall sell any
19 alcoholic beverages direct to any retailer or for consumption
20 on the premises where sold except as specified under
21 subsection (h) ~~(11)~~, nor sell or deliver any such alcoholic
22 beverages in other than original containers approved as to
23 capacity by the board and in accordance with standards of fill
24 prescribed by the U. S. Treasury Department, nor maintain or
25 operate within the state any place or places, other than the

1 place or places covered by the manufacturer license, where
2 alcoholic beverages are sold or where orders are taken.

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

14 "(d) All such manufacturer licensees shall be
15 required to mail to the board prior to the twentieth day of
16 each month a consolidated report of all shipments of alcoholic
17 beverages made to each wholesaler during the preceding month.
18 Such reports shall be in such form and containing such
19 information as the board may prescribe.

20 "(e) Every manufacturer shall keep at its principal
21 place of business within the state, daily permanent records
22 which shall show the quantities of raw materials received and
23 used in the manufacture of alcoholic beverages, and the
24 quantities of alcoholic beverages manufactured and stored, the
25 sale of alcoholic beverages, the quantities of alcoholic

1 beverages stored for hire or transported for hire by or for
2 the licensee and the names and addresses of the purchasers or
3 other recipients thereof.

4 "(f) Every place licensed as a manufacturer shall be
5 subject to inspection by members of the board or by persons
6 duly authorized and designated by the board at any and all
7 times of the day or night as they may deem necessary, for the
8 detection of violations of this chapter, of any law, or of the
9 rules and regulations of the board, or for the purpose of
10 ascertaining the correctness of the records required to be
11 kept by the licensees. The books and records of such licensees
12 shall, at all times, be open to inspection by members of the
13 board, or by persons duly authorized and designated by the
14 board. Members of the board and its duly authorized agents
15 shall have the right, without hindrance, to enter any place
16 which is subject to inspection hereunder, or any place where
17 such records are kept for the purpose of making such
18 inspections and making transcripts thereof.

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

22 "(h) (1) A manufacturer licensee actively and
23 continuously engaged in the manufacture of alcoholic beverages
24 on the manufacturer's licensed premises in the ~~State of~~
25 ~~Alabama~~ state may conduct tastings or samplings on the

1 licensed premises, as regulated by the ABC Board except as to
2 quantity and hours of operation, or as otherwise provided by
3 statute, and for that purpose give away or sell alcoholic
4 beverages manufactured there for consumption on only one
5 premises where manufactured.

6 ~~"(2)~~ All alcoholic beverages manufactured and
7 retained on the manufacturer's licensed premises for tasting
8 or sampling shall remain on the premises and be dispensed from
9 a barrel or keg or other original containers.

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

24 "(i) (1) In addition to the licenses provided for by
25 Chapter 3A of this title, and any county or municipal license,

1 there is levied on the manufacturer of the alcoholic beverages
2 dispensed on the premises the privilege or excise tax imposed
3 on beer by Sections 28-3-184 and 28-3-190; and imposed on
4 table wine by Section 28-7-18; and imposed on liquor by
5 Sections 28-3-200 to 28-3-205, inclusive. Every manufacturer
6 licensee shall file the tax returns, pay the taxes, and
7 perform all obligations imposed on wholesalers at the times
8 and places set forth therein. It shall be unlawful for any
9 manufacturer licensee who is required to pay the taxes so
10 imposed in the first instance to fail or refuse to add to the
11 sale price and collect from the purchaser the required amount
12 of tax, it being the intent and purpose of this provision that
13 each of the taxes levied is in fact a tax on the consumer,
14 with the manufacturer licensee who pays the tax in the first
15 instance acting merely as an agent of the state for the
16 collection and payment of the tax levied by Section 28-3-184;
17 as an agent for the county or municipality for the collection
18 and payment of the tax levied by Section 28-3-190; as an agent
19 for the county or municipality for collection and payment of
20 the tax levied by Section 28-7-18; and as an agent for the
21 state for collection and payment of the tax levied by Sections
22 28-3-200 to 28-3-205, inclusive.

23 "(2) The manufacturer licensee shall keep and
24 maintain all records required to be kept and maintained by

1 manufacturer, wholesaler, and retailer licensees for the tax
2 so levied.

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

11 "§28-4A-3.

12 "(a) In addition to the licenses authorized to be
13 issued and renewed by the board pursuant to the Alcoholic
14 Beverage Licensing Code codified as Chapter 3A of this title,
15 the board, upon applicant's compliance with the provisions of
16 this chapter and with Chapter 3A and the regulations made
17 thereunder, is authorized to issue to a qualified applicant a
18 brewpub license which shall authorize the licensee to
19 manufacture or brew beer, in a quantity not to exceed 10,000
20 barrels in any one year and to sell beer brewed on the
21 licensed premises in unpackaged form at retail for on-premises
22 consumption at the licensed premises only~~7;~~ to sell beer
23 brewed on the licensed premises in packaged form at retail for
24 off-premises consumption, provided the beer sold for
25 off-premises consumption may not exceed 288 ounces per

1 customer per day and shall be sealed, labeled, packaged, and
2 taxed in accordance with state and federal laws and
3 regulations; to sell beer brewed on the premises in original,
4 unopened barrel or keg containers to any licensed wholesaler
5 designated by a brewpub licensee pursuant to Sections 28-8-2
6 and 28-9-3 for resale to retail licensees~~7;~~ to donate and
7 deliver up to two kegs of the licensee's beer to a licensed
8 charitable special event operated by or on behalf of a
9 nonprofit organization; provided, however, donations shall be
10 taxed in accordance with state and federal laws and
11 regulations, and any beer remaining at the conclusion of the
12 charitable event shall be returned to the manufacturer for
13 disposal; and to purchase beer, including draft or keg beer,
14 in original, unopened containers from licensed wholesalers and
15 to sell such beer at retail for on-premises consumption only,
16 in a room or rooms or place on the licensed premises at all
17 times accessible to the use and accommodation of the general
18 public, subject to the following conditions:

19 ~~"(1) The brewpub premises must be located in an~~
20 ~~historic building or site as defined in Section 40-8-1, or in~~
21 ~~a registered historic district, or in any economically~~
22 ~~distressed area designated as suitable by the municipal or~~
23 ~~county governing body, in a wet county or wet municipality, in~~
24 ~~which county beer was brewed for public consumption prior to~~

1 ~~the ratification of the Eighteenth Amendment to the U.S.~~
2 ~~Constitution in 1919.~~

3 "~~(2)~~ (1) The proposed location of the premises shall
4 not, at the time of the original application, be prohibited by
5 a valid zoning ordinance or other ordinance in the valid
6 exercise of police power by the governing body of the
7 municipality or county in which the brewpub is located.

8 "~~(3)~~ (2) Beer brewed by the brewpub licensee shall be
9 packaged or contained in barrels from which the beer is to be
10 dispensed only on the premises where brewed for consumption on
11 the premises or sold in original, unopened barrel or keg
12 containers to any designated wholesaler licensee for resale to
13 retailer licensees.

14 "~~(4)~~ (3) The brewpub must contain and operate a
15 restaurant or otherwise provide food for consumption on the
16 premises.

17 "~~(5)~~ (4) The brewpub may not sell any alcoholic
18 beverages if it is not actively and continuously engaged in
19 the manufacture or brewing of alcoholic beverages on the
20 brewpub's licensed premises.

21 "(b) The annual license fee levied and prescribed
22 for a license as a brewpub issued or renewed by the board
23 pursuant to the authority of this chapter is \$1,000.

24 "(c) Except as provided in this subsection, the
25 provisions of this title shall be applicable. The provisions

1 of Section 28-3-4 and subsection (b) of Section 28-3A-6, shall
2 not be applicable with regard to beer brewed by the brewpub
3 and sold and dispensed on the brewpub premises. In all other
4 respects, Section 28-3-4 and Section 28-3A-6(b) shall be
5 applicable."

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

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 01-MAR-16.

Jeff Woodard
Clerk

Senate

15-MAR-16

Passed