

1 SB166  
2 172933-3  
3 By Senators Coleman-Madison, Singleton, Beasley and Waggoner  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 09-FEB-16

2  
3  
4 ENGROSSED

5  
6  
7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Relating to alcoholic beverages; to amend Sections  
12 28-3A-6 and 28-7-18, Code of Alabama 1975, by allowing a  
13 licensed winery to obtain a permit to operate one additional  
14 tasting room in addition to its on-site tasting room, for the  
15 purpose of tasting or sampling and selling at retail the  
16 winery's table wines.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 28-3A-6 and 28-7-18, Code of  
19 Alabama 1975, are 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) ~~(1)~~, 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 of~~  
10 ~~Alabama~~ state may conduct tastings or samplings on the  
11 licensed premises, as regulated by the ABC Board except as to  
12 quantity and hours of operation, or as otherwise provided by  
13 statute, and for that purpose give away or sell alcoholic  
14 beverages manufactured there for consumption on only one  
15 premises where manufactured.

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

20 "(2) Notwithstanding subdivision (1), the board may  
21 grant a permit allowing a manufacturer licensee engaged in the  
22 manufacture of less than 50,000 gallons of table wine per year  
23 in the state to establish and operate one additional off-site  
24 tasting room to be used to conduct tastings or samplings and  
25 to sell at retail the licensee's table wine. Wine sold for  
26 off-premises consumption may not exceed one case of wine per  
27 customer per day. The board may also grant a single permit

1 allowing an association representing the majority of wineries  
2 and grape growers in the state to establish and operate one  
3 off-site tasting room to be used to conduct tastings and  
4 samplings and to sell at retail table wines produced by wine  
5 manufacturer licensees in the state. An applicant for an  
6 off-site tasting room permit shall file a written application  
7 with the board in such form and containing such information as  
8 the board may prescribe, along with proof of consent and  
9 approval from the appropriate governing authority in which the  
10 off-site tasting room is to be located and a filing fee of  
11 fifty dollars (\$50). All state and federal laws and  
12 regulations applicable to on-site tasting rooms shall apply to  
13 an off-site tasting room. For purposes of this subdivision,  
14 one case of wine means the equivalent of twelve 750-milliliter  
15 bottles of wine.

16 "(i) (1) In addition to the licenses provided for by  
17 Chapter 3A of this title, and any county or municipal license,  
18 there is levied on the manufacturer of the alcoholic beverages  
19 dispensed on the premises the privilege or excise tax imposed  
20 on beer by Sections 28-3-184 and 28-3-190; and imposed on  
21 table wine by Section 28-7-18; and imposed on liquor by  
22 Sections 28-3-200 to 28-3-205, inclusive. Every manufacturer  
23 licensee shall file the tax returns, pay the taxes, and  
24 perform all obligations imposed on wholesalers at the times  
25 and places set forth therein. It shall be unlawful for any  
26 manufacturer licensee who is required to pay the taxes so  
27 imposed in the first instance to fail or refuse to add to the

1 sale price and collect from the purchaser the required amount  
2 of tax, it being the intent and purpose of this provision that  
3 each of the taxes levied is in fact a tax on the consumer,  
4 with the manufacturer licensee who pays the tax in the first  
5 instance acting merely as an agent of the state for the  
6 collection and payment of the tax levied by Section 28-3-184;  
7 as an agent for the county or municipality for the collection  
8 and payment of the tax levied by Section 28-3-190; as an agent  
9 for the county or municipality for collection and payment of  
10 the tax levied by Section 28-7-18; and as an agent for the  
11 state for collection and payment of the tax levied by Sections  
12 28-3-200 to 28-3-205, inclusive.

13 "(2) The manufacturer licensee shall keep and  
14 maintain all records required to be kept and maintained by  
15 manufacturer, wholesaler, and retailer licensees for the tax  
16 so levied.

17 "(j) A manufacturer licensee engaged in the  
18 manufacture of table wine in the state may donate and deliver  
19 up to two cases of the manufacturer's table wine to a licensed  
20 charitable special event operated by or on behalf of a  
21 nonprofit organization. Donations shall be taxed in accordance  
22 with state and federal laws and regulations. Any table wine  
23 remaining at the conclusion of the charitable event shall be  
24 returned to the manufacturer for disposal."

25 "§28-7-18.

26 "(a) No manufacturer shall sell any table wine  
27 direct to any retailer or for consumption on the premises

1 where sold, nor sell or deliver any such table wine in other  
2 than original containers, nor shall any manufacturer maintain  
3 or operate within this state any place or places, other than  
4 the place or places covered by his or its license where table  
5 wine is sold or where orders therefor are taken. Provided,  
6 further, that table wine ~~which~~ that is manufactured in Alabama  
7 may be sold directly at retail by the licensed manufacturer,  
8 for on-premise or off-premise consumption, only on the  
9 manufacturer's premises, ~~for on-premise or off-premise~~  
10 ~~consumption~~ and at one additional permitted off-site tasting  
11 room used to conduct tastings or samplings and to sell at  
12 retail the manufacturer's table wine.

13 " (b) (1) There is hereby levied and assessed, upon  
14 wine manufactured in Alabama and sold by the manufacturer  
15 directly at retail on the premises where it is manufactured,  
16 as provided in subsection (a), or dispensed, as free samples  
17 of not more than six ounces, in the tasting room or wine  
18 cellar on the manufacturer's premises, an excise tax, measured  
19 by and graduated in accordance with the volume of such wine  
20 sold or dispensed, in an amount equal to forty-five cents  
21 (\$.45) per liter.

22 " (2) The tax hereby levied on retail sales on a  
23 manufacturer's premises shall be added to the sales price of  
24 all table wine sold at retail by the manufacturer, as provided  
25 in subsection (a), and shall be collected from the consumers  
26 making the purchases.



1           "(c) The tax levied by subsection (b) shall be  
2 collected by a return and remitted, monthly, as follows:

3           "(1) Not later than the fifteenth day of the month  
4 following the month in which table wine was dispensed as free  
5 samples or sold at retail as provided in subsection (a), the  
6 manufacturer shall file with the board, on a form and in the  
7 manner prescribed by the board, a return showing taxes due at  
8 thirty-eight cents (\$.38) per liter of the table wine  
9 dispensed or sold at retail during the previous month; the  
10 taxes due at such rate shall be remitted to the board along  
11 with the return.

12           "(2) Not later than the fifteenth day of the month  
13 following the month in which table wine was dispensed as free  
14 samples or sold at retail as provided in subsection (a), the  
15 manufacturer shall file with the municipality within which the  
16 table wine was dispensed or sold at retail within its  
17 corporate limits, or, where dispensed or sold at retail  
18 outside of the corporate limits of any municipality, with the  
19 county within which the table wine was dispensed or sold at  
20 retail, a return showing taxes at seven cents (\$.07) per liter  
21 of the table wine dispensed or sold at retail during the  
22 previous month; the taxes due at such rate shall be remitted  
23 to the county or municipality along with the return.

24           "(3) All taxes imposed, levied, and collected under  
25 this section shall be deposited and credited in the same  
26 manner as are other table wine taxes.

1           "(d) Manufacturers who manufacture table wine within  
2 Alabama shall provide to the board monthly reports, in the  
3 form, time, and manner prescribed by the board, reporting  
4 gallonage sold and gallonage exported for sale outside the  
5 state during the previous month.

6           "(e) The tax herein levied is exclusive and shall be  
7 in lieu of all other and additional taxes of the state,  
8 county, and municipality imposed on or measured by the sale or  
9 volume of sale of table wine; provided that nothing herein  
10 contained shall be construed to exempt the retail sale of  
11 table wine from the levy of tax on general retail sales by the  
12 state, county, or municipality in the nature of, or in lieu  
13 of, a general sales tax."

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18

Senate

Read for the first time and referred to the Senate  
committee on Fiscal Responsibility and Economic  
Development..... 09-FEB-16

Read for the second time and placed on the calen-  
dar 1 amendment..... 01-MAR-16

Read for the third time and passed as amended .... 10-MAR-16

Yeas 25  
Nays 1

Patrick Harris  
Secretary