

1 HB149  
2 136103-1  
3 By Representative Nordgren  
4 RFD: Economic Development and Tourism  
5 First Read: 07-FEB-12  
6 PFD: 02/03/2012

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8 SYNOPSIS: Under existing law, license fees are levied  
9 and issued by the ABC Board to wine retailers,  
10 wholesalers, and manufacturers.

11 This bill would provide for the sale, fee,  
12 licensing, and distribution of table wine by a farm  
13 winery.

14  
15 A BILL  
16 TO BE ENTITLED  
17 AN ACT

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19 To amend Sections 28-7-4, 28-7-13, 28-7-18, and  
20 28-7-20, Code of Alabama 1975, to provide further for the  
21 sale, fee, licensing, and distribution of table wine by a farm  
22 winery.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Sections 28-7-4, 28-7-13, 28-7-18, and  
25 28-7-20, Code of Alabama 1975, are amended to read as follows:

26 "§28-7-4.

1           "Table wine may be sold in any county in Alabama  
2 which is now wet or may hereafter be designated a wet county  
3 pursuant to law, as follows:

4           "(1) A licensed wine manufacturer may sell table  
5 wine to any wine wholesaler or importer licensed to sell wine  
6 or to the board~~7.~~

7           "(2) A licensed wine importer may sell table wine to  
8 any wine wholesaler licensed to sell wine or to the board or  
9 state~~7.~~

10          "(3) A licensed wine wholesaler may sell, at  
11 wholesale only, table wine that has been purchased from a  
12 licensed manufacturer or importer to a licensed wine retailer  
13 or to a licensee of the board or other person lawfully  
14 authorized to sell wine in this state, or for export~~7.~~

15          "(4) A licensed wine retailer may sell table wine at  
16 retail for off-premises consumption only; provided, however, a  
17 licensee of the board authorized to sell at retail alcoholic  
18 beverages for on-premises consumption may sell table wine at  
19 retail for consumption on-premises and off-premises.

20          "(5) A licensed farm winery may sell table wine at  
21 retail for on-premises and off-premises consumption, and at  
22 wholesale to any wine wholesaler or importer licensed to sell  
23 wine or to the board.

24          "§28-7-13.

25          "(a) License fees for licenses issued by the board.  
26 The following annual license fees are levied and prescribed

1 for licenses issued and renewed by the board pursuant to the  
2 authority contained in this chapter:

3 "(1) Wine retailer's license, license fee of ~~\$150.00~~  
4 one hundred fifty dollars (\$150).

5 "(2) Wine wholesaler's license, license fee of  
6 ~~\$550.00~~ five hundred fifty dollars (\$550).

7 "(3) Wine importer's license, license fee of ~~\$500.00~~  
8 five hundred dollars (\$500).

9 "(4) Wine manufacturer's license, license fee of  
10 ~~\$500.00~~ five hundred dollars (\$500).

11 "(5) Farm winery license, license fee of one hundred  
12 fifty dollars (\$150).

13 "In addition, the county or municipality therein in which the  
14 manufacturer, farm winery, wholesaler, importer or retailer  
15 sells or distributes table wine may fix a reasonable privilege  
16 or license tax on a wine manufacturer, farm winery,  
17 wholesaler, importer or retailer located therein, conditioned  
18 on a permit or license being issued by the board. Provided,  
19 however, said county or municipality shall levy no license or  
20 privilege tax, or other charge for the privilege of doing  
21 business as a wine manufacturer, farm winery, wholesaler,  
22 importer or retailer, which shall exceed one-half the amount  
23 of the state license fee levied under the provisions of this  
24 section for like privilege.

25 "(b) Payment, collection and administration. All  
26 license and filing fees levied or authorized by this chapter,  
27 other than those levied by a municipality, shall be paid to

1 the board. All filing and license fees paid to the board shall  
2 be paid into the State Treasury to the credit of the Beer Tax  
3 and License Fund of the board and each month's receipts shall  
4 be distributed to the State General Fund no later than the end  
5 of the following month. All license fees levied by any county  
6 and paid the board shall be paid not later than the last day  
7 of the month following the month of collection to the county  
8 governing body which shall distribute the proceeds thereof.

9 "§28-7-18.

10 "(a) (1) No manufacturer shall sell any table wine  
11 direct to any retailer or for consumption on the premises  
12 where sold, nor sell or deliver any such table wine in other  
13 than original containers, nor shall any manufacturer maintain  
14 or operate within this state any place or places, other than  
15 the place or places covered by his or its license where table  
16 wine is sold or where orders therefor are taken.

17 "(2) Provided, further, that table wine which is  
18 manufactured in Alabama may be sold directly at retail by the  
19 licensed manufacturer only on the manufacturer's premises, for  
20 on-premise or off-premise consumption.

21 "(3) Provided, further, that a manufacturer holding  
22 a federal bonded winery license and producing less than  
23 100,000 gallons of table wine annually under that license  
24 shall qualify for a farm winery license.

25 "(4) Provided, further, that a farm winery license  
26 holder may do the following:

1           "a. Apply to the board for approval and obtain  
2 licenses for two additional farm winery locations apart from  
3 the primary license location where wine is manufactured, and  
4 shall be licensed for all premise activities allowed in this  
5 section without being required to manufacture or bottle wine.

6           "b. Purchase at wholesale other tax paid table wine  
7 and beer for on-premises and off-premises consumption only at  
8 farm winery premises of this subsection.

9           "c. Purchase, transport, or receive brandy or  
10 distill brandy from wine to be used only to fortify wine up to  
11 24 percent alcohol by volume as allowed by the laws of the  
12 United States or sold to other federal licensed wineries.

13           "d. Sell, transport, and deliver table wine outside  
14 of the State of Alabama as allowed by the laws of other  
15 states.

16           "(5) Provided, further, that a licensed farm winery  
17 that is located in the state under this subsection may with  
18 fermented table wine of its manufacture and so labeled as  
19 "produced and bottled by":

20           "a. Sell and deliver the fermented table wine to the  
21 board, directly to consumers for off-premises and on-premises  
22 consumption, to alcoholic beverage permit holders of the  
23 board, including, but not limited to, wholesale dealers and  
24 distributors, stores, hotels, restaurants, clubs, and dining  
25 cars.

26           "b. Obtain board approval for no more than five  
27 farmers markets or other municipal licensed events not lasting

1 longer than five consecutive days or 30 total days annually.  
2 Upon presenting the event calendar, and state or municipal  
3 documentation 30 days prior to the board for approval, and  
4 obtaining written board approval, a farm winery may dispense  
5 as samples and sell by the bottle produced and bottled by  
6 table wine, and shall display at all times the farm winery  
7 license.

8 "c. Sell and deliver the table wine exclusive of any  
9 territory agreement.

10 "d. Sell on the premises the fermented table wine  
11 produced at the winery by the bottle, by the case to licensed  
12 retailers, including, but not limited to, off-premises retail  
13 licensees, restaurants, and clubs.

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

23 "(2) The tax hereby levied on retail sales on a  
24 manufacturer's premises shall be added to the sales price of  
25 all table wine sold at retail by the manufacturer, as provided  
26 in subsection (a), and shall be collected from the consumers  
27 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) There is levied and assessed, upon table wine  
25 bottled by a farm winery and dispensed as samples, sold for  
26 on-premises and off-premises consumption in Alabama or sold  
27 and delivered to retail licensees of the board, an excise tax,



1 measured by and graduated in accordance with the volume of the  
2 wine sold or dispensed in an amount equal to forty-five cents  
3  (\$.45) per liter.

4 "~~(3)~~(4) All taxes imposed, levied, and collected  
5 under this section shall be deposited and credited in the same  
6 manner as are other table wine taxes.

7 "(d) Manufacturers who manufacture table wine within  
8 Alabama shall provide to the board monthly reports, in the  
9 form, time, and manner prescribed by the board, reporting  
10 gallonage sold and gallonage exported for sale outside the  
11 state during the previous month.

12 "(e) (1) The tax herein levied is exclusive and shall  
13 be in lieu of all other and additional taxes of the state,  
14 county, and municipality imposed on or measured by the sale or  
15 volume of sale of table wine; provided that nothing herein  
16 contained shall be construed to exempt the retail sale of  
17 table wine from the levy of tax on general retail sales by the  
18 state, county, or municipality in the nature of, or in lieu  
19 of, a general sales tax.

20 "(2) Table wine as used in this subsection shall be  
21 defined as any wine containing not more than 24 percent  
22 alcohol by volume fortified with brandy and manufactured  
23 according to federal law. Table wine does not include any wine  
24 containing more than 16.5 percent alcohol by volume that is  
25 made with herbs or flavors, except vermouth, or is an  
26 imitation or other than standard wine. Table wine is not  
27 liquor, spirituous or vinous.

1           "(3) No excise or liter tax shall be due for table  
2 wine sold to any wholesale license holder or exported by a  
3 manufacturer.

4           "(4) Table wine manufactured in Alabama shall be  
5 subject to tax as may be described by Section 28-7-16.

6           "(5) Fermented table wine or "produced and bottled  
7 by" table wine as used in this section conforms to the  
8 prevailing definition of the United States federal government,  
9 including fermented table wine content and as further  
10 indicated by the table wine label.

11           "(f) A manufacturer as described in this section  
12 shall include farm winery license holders.

13           "\$28-7-20.

14           "No wine retailer shall purchase or receive any  
15 table wine except from the board, a farm winery, or from wine  
16 wholesalers duly licensed under this chapter. All table wines  
17 must be received by the wine retailer in original containers  
18 as prepared for the market by the manufacturer. Wine retailers  
19 may sell or dispense at retail to be consumed off the premises  
20 only. On-premises retail licensees may break the bulk upon the  
21 licensed premises and sell or dispense at retail to be  
22 consumed on the premises, or sell or dispense at retail in  
23 original containers to be consumed on or off the premises."

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