

1 HB539
2 212420-3
3 By Representatives Daniels, Lawrence and Gray
4 RFD: Economic Development and Tourism
5 First Read: 11-MAR-21

1 ENGROSSED

2
3
4 A BILL
5 TO BE ENTITLED
6 AN ACT

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

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

18 "§28-3A-6.

19 "(a) Upon the applicant's compliance with this
20 chapter and the rules adopted under this chapter, the board
21 shall issue to the applicant a manufacturer license which
22 ~~shall authorize~~ authorizes the licensee to manufacture or
23 otherwise distill, produce, ferment, brew, bottle, rectify, or
24 compound alcoholic beverages within this state for sale or
25 distribution within this state. No person shall manufacture or
26 otherwise distill, produce, ferment, brew, bottle, rectify, or
27 compound alcoholic beverages within this state or for sale or

1 distribution within this state or to the state, the board, or
2 any licensee of the board, unless the person or the authorized
3 representative of the person shall be granted a manufacturer
4 license issued by the board.

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

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

26 "(d) All manufacturer licensees shall be required to
27 mail to the board prior to the twentieth day of each month a

1 consolidated report of all shipments of alcoholic beverages
2 made to each wholesaler during the preceding month. ~~Such~~ The
3 reports shall be in ~~such~~ the form and containing ~~such~~
4 information as the board may prescribe.

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

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

1 records are kept for the purpose of making ~~such~~ inspections
2 and making transcripts thereof.

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

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

18 "(2) Notwithstanding subdivision (1), a manufacturer
19 licensee engaged in the manufacture of less than 60,000
20 barrels of beer per year may sell at retail on its licensed
21 premises in the state, for off-premises consumption, beer
22 produced at that licensed premises; provided, however, beer
23 sold for off-premises consumption: May not exceed ~~200~~ 864
24 ounces per customer per day; may not be produced pursuant to a
25 contract with another manufacturer, and shall be sealed,
26 labeled, packaged, and taxed in accordance with state and
27 federal laws and regulations. For purposes of this

1 subdivision, beer produced by a parent, subsidiary, or
2 affiliate of the licensee, or by a contract brewery
3 exclusively for the manufacturer, regardless of where the beer
4 is produced, shall be included for purposes of calculating the
5 60,000 barrel limit.

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

16 "(4) Notwithstanding subdivision (1), the board may
17 grant a permit allowing a manufacturer licensee engaged in the
18 manufacture of less than 50,000 gallons of table wine per year
19 in the state to establish and operate one additional off-site
20 tasting room to be used to conduct tastings or samplings and
21 to sell at retail the licensee's table wine. The board may
22 also grant a single permit allowing an association
23 representing the majority of wineries and grape growers in the
24 state to establish and operate one off-site tasting room to be
25 used to conduct tastings and samplings and to sell at retail
26 table wines produced by wine manufacturer licensees in the
27 state. An applicant for an off-site tasting room permit shall

1 file a written application with the board in ~~such~~ the form and
2 containing ~~such~~ information as the board may prescribe, along
3 with proof of consent and approval from the appropriate
4 governing authority in which the off-site tasting room is to
5 be located and a filing fee of fifty dollars (\$50). All state
6 and federal laws and regulations applicable to on-site tasting
7 rooms shall apply to an off-site tasting room. Wine sold at an
8 off-site tasting room for off-premises consumption may not
9 exceed one case of wine per customer per day. For purposes of
10 this subdivision, one case of wine means the equivalent of
11 twelve 750-milliliter bottles of wine.

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

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

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

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

26 "(k) A manufacturer licensee engaged in the
27 manufacture of table wine in the state may donate and deliver

1 up to two cases of the manufacturer's table wine to a licensed
2 nonprofit special event operated by or on behalf of a
3 nonprofit organization. Donations shall be taxed in accordance
4 with state and federal laws and regulations. Any table wine
5 remaining at the conclusion of the nonprofit event shall be
6 returned to the manufacturer for disposal.

7 "§28-4A-3.

8 "(a) In addition to the licenses authorized to be
9 issued and renewed by the board pursuant to the Alcoholic
10 Beverage Licensing Code codified as Chapter 3A of this title,
11 the board, upon applicant's compliance with this chapter,
12 Chapter 3A and the rules adopted thereunder, and the
13 conditions set forth in subsection (b), may issue to a
14 qualified applicant a brewpub license which shall authorize
15 the licensee to do all of the following:

16 "(1) Manufacture or brew beer, in a quantity not to
17 exceed 10,000 barrels in any one year, and to sell beer brewed
18 on the licensed premises in unpackaged form at retail for
19 on-premises consumption at the licensed premises only.

20 "(2) Sell beer brewed on the licensed premises in
21 packaged form at retail for off-premises consumption, provided
22 the beer sold for off-premises consumption may not exceed ~~288~~
23 864 ounces per customer per day and shall be sealed, labeled,
24 packaged, and taxed in accordance with state and federal laws
25 and regulations.

26 "(3) Sell beer brewed on the premises in original,
27 unopened barrel or keg containers to any licensed wholesaler

1 designated by a brewpub licensee pursuant to Sections 28-8-2
2 and 28-9-3 for resale to retail licensees.

3 "(4) Donate and deliver up to ~~two kegs~~ 31 gallons of
4 the licensee's beer to a licensed charitable special event
5 operated by or on behalf of a nonprofit organization;
6 provided, however, donations shall be taxed in accordance with
7 state and federal laws and regulations, and any beer remaining
8 at the conclusion of the charitable event shall be returned to
9 the ~~manufacturer~~ brewpub for disposal.

10 "(5) Purchase beer, including draft or keg beer, in
11 original, unopened containers from licensed wholesalers and to
12 sell such beer at retail for on-premises consumption only, in
13 a room or rooms or place on the licensed premises at all times
14 accessible to the use and accommodation of the general public.

15 "(b) A brewpub is subject to all of the following
16 conditions:

17 "(1) The proposed location of the premises shall
18 not, at the time of the original application, be prohibited by
19 a valid zoning ordinance or other ordinance in the valid
20 exercise of police power by the governing body of the
21 municipality or county in which the brewpub is located.

22 "(2) Beer brewed by the brewpub licensee shall be
23 packaged or contained in barrels from which the beer is to be
24 dispensed only on the premises where brewed for consumption on
25 the premises or sold in original, unopened barrel or keg
26 containers to any designated wholesaler licensee for resale to
27 retailer licensees.

1 "(3) The brewpub must contain and operate a
2 restaurant or otherwise provide food for consumption on the
3 premises.

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

8 "(c) The annual license fee levied and prescribed
9 for a license as a brewpub issued or renewed by the board is
10 one thousand dollars (\$1,000).

11 "(d) A manufacturer that sells, on an annual basis,
12 an amount equal to no more than 60,000 barrels of beer, may
13 have a financial interest in a brewpub, including a brewpub
14 that also has a restaurant retail license, provided the
15 manufacturer may not transfer alcoholic beverages directly
16 from the manufacturer to the brewpub, but may purchase
17 alcoholic beverages from an authorized wholesaler or as
18 otherwise provided by law, and may not have a financial
19 interest in any retailer other than a brewpub.

20 "(e) Section 28-3-4 and subsection (b) of Section
21 28-3A-6 shall not be applicable with regard to beer brewed by
22 either of the following and sold and dispensed on the brewpub
23 premises:

24 "(1) The brewpub.

25 "(2) A manufacturer described in, and in compliance
26 with, subsection (d)."

1 Section 2. 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.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Economic Devel-
opment and Tourism..... 11-MAR-21

Read for the second time and placed
on the calendar with 1 substitute
and..... 01-APR-21

Read for the third time and passed
as amended..... 15-APR-21
Yeas 72, Nays 17, Abstains 7

Jeff Woodard
Clerk