

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

1 172933-1:n:01/29/2016:PMG/mfc LRS2016-39

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8 SYNOPSIS: Under existing law, a licensed manufacturer
9 of table wine may only operate a tasting room for
10 the purpose of tasting or sampling and retail sales
11 of the manufacturer's table wines at the site where
12 the table wine is manufactured.

13 This bill would allow a licensed winery to
14 obtain a permit to operate one additional tasting
15 room in addition to its on-site tasting room.

16
17 A BILL

18 TO BE ENTITLED

19 AN ACT

20
21 Relating to alcoholic beverages; to amend Sections
22 28-3A-6 and 28-7-18, Code of Alabama 1975, by allowing a
23 licensed winery to obtain a permit to operate one additional
24 tasting room in addition to its on-site tasting room, for the
25 purpose of tasting or sampling and selling at retail the
26 winery's table wines.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 28-3A-6 and 28-7-18, Code of Alabama 1975, are amended to read as follows:

"§28-3A-6.

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

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

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

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

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

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

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

"(h) (1) A manufacturer licensee actively and continuously engaged in the manufacture of alcoholic beverages on the manufacturer's licensed premises in the ~~State of~~ Alabama state may conduct tastings or samplings on the licensed premises, as regulated by the ABC Board except as to quantity and hours of operation, or as otherwise provided by statute, and for that purpose give away or sell alcoholic beverages manufactured there for consumption on only one premises where manufactured.

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

"(2) Notwithstanding subdivision (1), the board may grant a permit allowing a manufacturer licensee engaged in the manufacture of table wine in the state to establish and operate one additional off-site tasting room to be used to conduct tastings or samplings and to sell at retail the licensee's table wine. An applicant for an off-site tasting room permit shall file a written application with the board in such form and containing such information as the board may prescribe, along with proof of consent and approval from the appropriate governing authority in which the off-site tasting room is to be located and a filing fee of fifty dollars (\$50). All state and federal laws and regulations applicable to on-site tasting rooms shall apply to an off-site tasting room.

"(i) (1) In addition to the licenses provided for by Chapter 3A of this title, and any county or municipal license, there is levied on the manufacturer of the alcoholic beverages dispensed on the premises the privilege or excise tax imposed on beer by Sections 28-3-184 and 28-3-190; and imposed on table wine by Section 28-7-18; and imposed on liquor by Sections 28-3-200 to 28-3-205, inclusive. Every manufacturer licensee shall file the tax returns, pay the taxes, and perform all obligations imposed on wholesalers at the times and places set forth therein. It shall be unlawful for any

1 manufacturer licensee who is required to pay the taxes so
2 imposed in the first instance to fail or refuse to add to the
3 sale price and collect from the purchaser the required amount
4 of tax, it being the intent and purpose of this provision that
5 each of the taxes levied is in fact a tax on the consumer,
6 with the manufacturer licensee who pays the tax in the first
7 instance acting merely as an agent of the state for the
8 collection and payment of the tax levied by Section 28-3-184;
9 as an agent for the county or municipality for the collection
10 and payment of the tax levied by Section 28-3-190; as an agent
11 for the county or municipality for collection and payment of
12 the tax levied by Section 28-7-18; and as an agent for the
13 state for collection and payment of the tax levied by Sections
14 28-3-200 to 28-3-205, inclusive.

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

19 "§28-7-18.

20 "(a) No manufacturer shall sell any table wine
21 direct to any retailer or for consumption on the premises
22 where sold, nor sell or deliver any such table wine in other
23 than original containers, nor shall any manufacturer maintain
24 or operate within this state any place or places, other than
25 the place or places covered by his or its license where table
26 wine is sold or where orders therefor are taken. Provided,
27 further, that table wine ~~which~~ that is manufactured in Alabama

1 may be sold directly at retail by the licensed manufacturer,
2 for on-premise or off-premise consumption, only on the
3 manufacturer's premises, for on-premise or off-premise
4 consumption and at one additional permitted off-site tasting
5 room used to conduct tastings or samplings and to sell at
6 retail the manufacturer's table wine.

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

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

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

23 "(1) Not later than the fifteenth day of the month
24 following the month in which table wine was dispensed as free
25 samples or sold at retail as provided in subsection (a), the
26 manufacturer shall file with the board, on a form and in the
27 manner prescribed by the board, a return showing taxes due at

1 thirty-eight cents (\$.38) per liter of the table wine
2 dispensed or sold at retail during the previous month; the
3 taxes due at such rate shall be remitted to the board along
4 with the return.

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

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

20 "(d) Manufacturers who manufacture table wine within
21 Alabama shall provide to the board monthly reports, in the
22 form, time, and manner prescribed by the board, reporting
23 gallonage sold and gallonage exported for sale outside the
24 state during the previous month.

25 "(e) The tax herein levied is exclusive and shall be
26 in lieu of all other and additional taxes of the state,
27 county, and municipality imposed on or measured by the sale or

1 volume of sale of table wine; provided that nothing herein
2 contained shall be construed to exempt the retail sale of
3 table wine from the levy of tax on general retail sales by the
4 state, county, or municipality in the nature of, or in lieu
5 of, a general sales tax."

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.