

1 SB439
2 159712-2
3 By Senator Brewbaker
4 RFD: Job Creation and Economic Development
5 First Read: 05-MAR-14

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, alcoholic beverage
9 manufacturers are not allowed to operate a
10 restaurant on its premises and dispense alcoholic
11 beverages or to sell its own manufactured beverages
12 at retail on site for consumption elsewhere.

13 This bill would allow certain alcoholic
14 beverage manufacturers to obtain an additional
15 license to operate a restaurant on or adjacent to
16 its licensed manufacturing premises and dispense
17 alcoholic beverages. This bill would allow such a
18 licensee to purchase from a licensed wholesaler its
19 manufactured beverages to sell at retail for
20 off-premises consumption.

21
22 A BILL
23 TO BE ENTITLED
24 AN ACT

25
26 To amend Section 28-3A-6, Code of Alabama 1975, to
27 allow an alcoholic beverage manufacturing licensee that

1 manufactures in excess of 25,000 barrels of alcoholic
2 beverages per year in Alabama to obtain an additional license
3 to operate a restaurant on or adjacent to its licensed
4 manufacturing premises and dispense alcoholic beverages that
5 it manufactures or that are manufactured by others; to allow
6 an alcoholic beverage manufacturing licensee that manufactures
7 in excess of 25,000 barrels of alcoholic beverages per year in
8 Alabama to purchase from a licensed wholesaler alcoholic
9 beverages manufactured by the licensee for retail sale for
10 off-premises consumption.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Section 28-3A-6, Code of Alabama 1975, is
13 amended to read as follows:

14 "§28-3A-6.

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

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

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

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

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

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

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

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

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

14 "(3) Notwithstanding Section 28-3-4 or any other
15 provision of law, a manufacturer licensee that manufactures in
16 excess of 25,000 barrels of alcoholic beverages per year in
17 Alabama, on or adjacent to the manufacturer's licensed
18 premises, may: (i) operate a restaurant or facility where food
19 is provided and, upon application to the board and compliance
20 with the provisions of this chapter, be issued an additional
21 license as described in Section 28-3A-13 for the purpose of
22 selling and dispensing alcoholic beverages at retail for
23 consumption at its restaurant or facility where food is
24 provided, (ii) sell alcoholic beverages manufactured by the
25 licensee at retail for consumption at its restaurant or
26 facility where food is provided, and (iii) purchase from
27 licensed wholesalers alcoholic beverages manufactured by the

1 licensee and sell those alcoholic beverages at retail for
2 off-premises consumption.

3 "(i) (1) In addition to the licenses provided for by
4 Chapter 3A of this title, and any county or municipal license,
5 there is levied on the manufacturer of the alcoholic beverages
6 dispensed on the premises the privilege or excise tax imposed
7 on beer by Sections 28-3-184 and 28-3-190; and imposed on
8 table wine by Section 28-7-18; and imposed on liquor by
9 Sections 28-3-200 to 28-3-205, inclusive. Every manufacturer
10 licensee shall file the tax returns, pay the taxes, and
11 perform all obligations imposed on wholesalers at the times
12 and places set forth therein. It shall be unlawful for any
13 manufacturer licensee who is required to pay the taxes so
14 imposed in the first instance to fail or refuse to add to the
15 sale price and collect from the purchaser the required amount
16 of tax, it being the intent and purpose of this provision that
17 each of the taxes levied is in fact a tax on the consumer,
18 with the manufacturer licensee who pays the tax in the first
19 instance acting merely as an agent of the state for the
20 collection and payment of the tax levied by Section 28-3-184;
21 as an agent for the county or municipality for the collection
22 and payment of the tax levied by Section 28-3-190; as an agent
23 for the county or municipality for collection and payment of
24 the tax levied by Section 28-7-18; and as an agent for the
25 state for collection and payment of the tax levied by Sections
26 28-3-200 to 28-3-205, inclusive.

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

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