HB414

191461-1

By Representative Ford

RFD: Economic Development and Tourism

First Read: 13-FEB-18
SYNOPSIS: Existing law provides for a special events retail license for the sale of beer, wine, and liquor.

This bill would provide for the issuance of a nonprofit special events retail license for the sale of beer, wine, and liquor.

This bill would authorize the donation of beer, wine, and liquor by nonlicensed persons.

Existing law authorizes a manufacturer licensee of beer or wine to donate its product to a licensed charitable special event operated by a nonprofit organization.

This bill would provide that a manufacturer licensee of beer or wine may donate its product to a licensed nonprofit special event operated by a nonprofit organization.

A BILL
TO BE ENTITLED
AN ACT
Relating to the sale of alcoholic beverages; to provide for the issuance of a nonprofit special events retail license for the sale of beer, wine, and liquor; to authorize the donation of distilled beer, wine, and liquor by nonlicensed persons; and to amend Section 28-3A-6, Code of Alabama 1975, as last amended by Act 2017-404, 2017 Regular Session, relating to donations of alcoholic beverages to charitable events, to provide that a manufacturer licensee of beer or wine may donate its product to a licensed nonprofit special event operated by a nonprofit organization.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Definitions.

As used in Sections 1 through 9, the following words shall have the following meanings:

(1) NONPROFIT SPECIAL EVENTS RETAIL LICENSE. A license issued pursuant to Section 2 for the sale of beer, wine, or liquor.

(2) QUALIFYING ORGANIZATION. A bona fide nonprofit organization operating in the state that satisfies all of the following requirements:

a. Operates without profit to the organization's members.

b. Is exempt from taxation under Section 501 of the Internal Revenue Code.

c. Satisfies at least one of the following requirements:
1. Has been continuously in existence in the state for a minimum of three years.

2. Is affiliated with a parent organization that has been in existence in the state for a minimum of three years.

3. Has reorganized and is continuing its mission under a new name on file with the Secretary of State and with a new tax identification number after having satisfied the requirements set forth in either subparagraph 1. or 2.

Section 2. Licensed authorized.

The board may issue a Nonprofit Special Events Retail License for the sale of beer, wine, and liquor to a qualifying organization.

Section 3. Applications for Nonprofit Special Events Retail License.

(a) Applications for a Nonprofit Special Events Retail License shall be made with the board at least 25 calendar days prior to the event on forms provided by the board and shall be verified by oath or affirmation of an officer or director of the qualifying organization who is authorized to do so.

(b) The applicant shall provide the Alcoholic Beverage Control Board all of the following:

   (1) Documentation to show that the nonprofit is a qualifying organization.

   (2) A notarized, signed statement of proper authority from the person signing the application.
(3) Date, time, and address of the event location. The applicant may also include an alternate event date or location.

(4) Documentation of authority for use of property for the requested event.

(5) Copy of letter notifying the local governing officials of the event.

(c) A qualifying organization that applies for a Nonprofit Special Events Retail License shall not be required to provide evidence of liquor liability insurance.

(d) The board may request additional documentation at its discretion.

(e) Nonprofit Special Event Retail Licenses are not renewable and are valid for a period not to exceed seven days, and are issued upon terms and conditions as the board may prescribe.

Section 4. Donated alcohol.

Beer, wine, and liquor may be donated by a nonlicensed person.

Section 5. Rulemaking authority.

The board may adopt rules necessary for the implementation and administration of this act.

Section 6. Section 28-3A-6, Code of Alabama 1975, as last amended by Act 2017-404 of the 2017 Regular Session, is amended to read as follows:

"S28-3A-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), 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 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.

"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), a manufacturer
licensee engaged in the manufacture of less than 60,000
barrels of beer per year may sell at retail on its licensed premises in the state, for off-premises consumption, beer produced at that licensed premises; provided, however, beer sold for off-premises consumption: May not exceed 288 ounces per customer per day; may not be produced pursuant to a contract with another manufacturer; and shall be sealed, labeled, packaged, and taxed in accordance with state and federal laws and regulations. For purposes of this subdivision, beer produced by a parent, subsidiary, or affiliate of the licensee, or by a contract brewery, regardless of where the beer is produced, shall be included for purposes of calculating the 60,000 barrel limit.

"(3) A manufacturer licensee engaged in the manufacture of liquor on the manufacturer's licensed premises in the state may sell at retail on its licensed premises, for off-premises consumption, liquor manufactured at that licensed premises; provided, however, liquor sold for off-premises consumption may not exceed 750 milliliters per customer per day and shall be sealed, labeled, packaged, and taxed in accordance with state and federal laws and regulations. The manufacturer licensee shall keep and maintain records for three years of all sales for off-premises consumption.

"(4) Notwithstanding subdivision (1), the board may grant a permit allowing a manufacturer licensee engaged in the manufacture of less than 50,000 gallons of table wine per year 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. The board may
also grant a single permit allowing an association
representing the majority of wineries and grape growers in the
state to establish and operate one off-site tasting room to be
used to conduct tastings and samplings and to sell at retail
table wines produced by wine manufacturer licensees in the
state. 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. Wine sold at an
off-site tasting room for off-premises consumption may not
exceed one case of wine per customer per day. For purposes of
this subdivision, one case of wine means the equivalent of
twelve 750-milliliter bottles of wine.

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

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

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

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

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