

1 HB414
2 191461-1
3 By Representative Ford
4 RFD: Economic Development and Tourism
5 First Read: 13-FEB-18

2
3
4
5
6
7
8 SYNOPSIS: Existing law provides for a special events
9 retail license for the sale of beer, wine, and
10 liquor.

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

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

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

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

24
25 A BILL
26 TO BE ENTITLED
27 AN ACT

1
2 Relating to the sale of alcoholic beverages; to
3 provide for the issuance of a nonprofit special events retail
4 license for the sale of beer, wine, and liquor; to authorize
5 the donation of distilled beer, wine, and liquor by
6 nonlicensed persons; and to amend Section 28-3A-6, Code of
7 Alabama 1975, as last amended by Act 2017-404, 2017 Regular
8 Session, relating to donations of alcoholic beverages to
9 charitable events, to provide that a manufacturer licensee of
10 beer or wine may donate its product to a licensed nonprofit
11 special event operated by a nonprofit organization.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Definitions.

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

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

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

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

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

26 c. Satisfies at least one of the following
27 requirements:

1 1. Has been continuously in existence in the state
2 for a minimum of three years.

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

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

9 Section 2. Licensed authorized.

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

13 Section 3. Applications for Nonprofit Special Events
14 Retail License.

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

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

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

25 (2) A notarized, signed statement of proper
26 authority from the person signing the application.

1 (3) Date, time, and address of the event location.
2 The applicant may also include an alternate event date or
3 location.

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

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

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

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

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

17 Section 4. Donated alcohol.

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

20 Section 5. Rulemaking authority.

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

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

26 "§28-3A-6.

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

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

24 "(c) Each manufacturer licensee shall be required to
25 file with the board, prior to making any sales in Alabama a
26 list of its labels to be sold in Alabama and shall file with
27 the board its federal certificate of label approvals or its

1 certificates of exemption as required by the U. S. Treasury
2 Department. All liquors and wines whose labels have not been
3 registered as herein provided for shall be considered
4 contraband and may be seized by the board or its agents, or
5 any peace officer of the State of Alabama without a warrant
6 and the goods shall be delivered to the board and disposed of
7 as provided by law.

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

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

23 "(f) Every place licensed as a manufacturer shall be
24 subject to inspection by members of the board or by persons
25 duly authorized and designated by the board at any and all
26 times of the day or night as they may deem necessary, for the
27 detection of violations of this chapter, of any law, or of the

1 rules and regulations of the board, or for the purpose of
2 ascertaining the correctness of the records required to be
3 kept by the licensees. The books and records of such licensees
4 shall, at all times, be open to inspection by members of the
5 board, or by persons duly authorized and designated by the
6 board. Members of the board and its duly authorized agents
7 shall have the right, without hindrance, to enter any place
8 which is subject to inspection hereunder, or any place where
9 such records are kept for the purpose of making such
10 inspections and making transcripts thereof.

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

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

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

26 "(2) Notwithstanding subdivision (1), a manufacturer
27 licensee engaged in the manufacture of less than 60,000

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

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

23 "(4) Notwithstanding subdivision (1), the board may
24 grant a permit allowing a manufacturer licensee engaged in the
25 manufacture of less than 50,000 gallons of table wine per year
26 in the state to establish and operate one additional off-site
27 tasting room to be used to conduct tastings or samplings and

1 to sell at retail the licensee's table wine. The board may
2 also grant a single permit allowing an association
3 representing the majority of wineries and grape growers in the
4 state to establish and operate one off-site tasting room to be
5 used to conduct tastings and samplings and to sell at retail
6 table wines produced by wine manufacturer licensees in the
7 state. An applicant for an off-site tasting room permit shall
8 file a written application with the board in such form and
9 containing such information as the board may prescribe, along
10 with proof of consent and approval from the appropriate
11 governing authority in which the off-site tasting room is to
12 be located and a filing fee of fifty dollars (\$50). All state
13 and federal laws and regulations applicable to on-site tasting
14 rooms shall apply to an off-site tasting room. Wine sold at an
15 off-site tasting room for off-premises consumption may not
16 exceed one case of wine per customer per day. For purposes of
17 this subdivision, one case of wine means the equivalent of
18 twelve 750-milliliter bottles of wine.

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

1 and places set forth therein. It shall be unlawful for any
2 manufacturer licensee who is required to pay the taxes so
3 imposed in the first instance to fail or refuse to add to the
4 sale price and collect from the purchaser the required amount
5 of tax, it being the intent and purpose of this provision that
6 each of the taxes levied is in fact a tax on the consumer,
7 with the manufacturer licensee who pays the tax in the first
8 instance acting merely as an agent of the state for the
9 collection and payment of the tax levied by Section 28-3-184;
10 as an agent for the county or municipality for the collection
11 and payment of the tax levied by Section 28-3-190; as an agent
12 for the county or municipality for collection and payment of
13 the tax levied by Section 28-7-18; and as an agent for the
14 state for collection and payment of the tax levied by Sections
15 28-3-200 to 28-3-205, inclusive.

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

22 "(j) A manufacturer licensee engaged in the
23 manufacture of beer in the state may donate and deliver up to
24 ~~two kegs~~ up to 31 gallons of the manufacturer's beer to a
25 licensed ~~charitable~~ nonprofit special event operated by or on
26 behalf of a nonprofit organization. Donations shall be taxed
27 in accordance with state and federal laws and regulations. Any

1 beer remaining at the conclusion of the ~~charitable~~ nonprofit
2 event shall be returned to the manufacturer for disposal.

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

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