

1 SB352  
2 192253-1  
3 By Senator Holley  
4 RFD: Governmental Affairs  
5 First Read: 27-FEB-18

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8 SYNOPSIS: Under existing law, a person or entity  
9 licensed by the Alabama Alcoholic Beverage Control  
10 Board as a manufacturer engaged in the manufacture  
11 of liquor on the manufacturer's licensed premises  
12 may sell at retail up to 750 milliliters of its  
13 product per day per customer for off-premises  
14 consumption.

15 This bill would increase this amount to 4.5  
16 liters per day per customer for off-premises  
17 consumption.

18  
19 A BILL  
20 TO BE ENTITLED  
21 AN ACT  
22

23 Relating to alcoholic beverages; to amend Section  
24 28-3A-6, Code of Alabama 1975, relating to persons or entities  
25 licensed by the Alabama Alcoholic Beverage Control Board as a  
26 manufacturer of liquor on its premises, to increase the amount

1 a manufacturer is authorized to sell to a customer for  
2 off-premises consumption per day.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

6 "§28-3A-6.

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

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

1 place or places covered by the manufacturer license, where  
2 alcoholic beverages are sold or where orders are taken.

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

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

20 "(e) Every manufacturer shall keep at its principal  
21 place of business within the state, daily permanent records  
22 which shall show the quantities of raw materials received and  
23 used in the manufacture of alcoholic beverages, and the  
24 quantities of alcoholic beverages manufactured and stored, the  
25 sale of alcoholic beverages, the quantities of alcoholic  
26 beverages stored for hire or transported for hire by or for

1 the licensee and the names and addresses of the purchasers or  
2 other recipients thereof.

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

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

21 "(h) (1) A manufacturer licensee actively and  
22 continuously engaged in the manufacture of alcoholic beverages  
23 on the manufacturer's licensed premises in the state may  
24 conduct tastings or samplings on the licensed premises, as  
25 regulated by the ABC Board except as to quantity and hours of  
26 operation, or as otherwise provided by statute, and for that

1 purpose give away or sell alcoholic beverages manufactured  
2 there for consumption on only one premises where manufactured.

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

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

21 "(3) A manufacturer licensee engaged in the  
22 manufacture of liquor on the manufacturer's licensed premises  
23 in the state may sell at retail on its licensed premises, for  
24 off-premises consumption, liquor manufactured at that licensed  
25 premises; provided, however, liquor sold for off-premises  
26 consumption may not exceed ~~750 milliliters~~ 4.5 liters per  
27 customer per day and shall be sealed, labeled, packaged, and

1 taxed in accordance with state and federal laws and  
2 regulations. The manufacturer licensee shall keep and maintain  
3 records for three years of all sales for off-premises  
4 consumption.

5 "(4) Notwithstanding subdivision (1), the board may  
6 grant a permit allowing a manufacturer licensee engaged in the  
7 manufacture of less than 50,000 gallons of table wine per year  
8 in the state to establish and operate one additional off-site  
9 tasting room to be used to conduct tastings or samplings and  
10 to sell at retail the licensee's table wine. The board may  
11 also grant a single permit allowing an association  
12 representing the majority of wineries and grape growers in the  
13 state to establish and operate one off-site tasting room to be  
14 used to conduct tastings and samplings and to sell at retail  
15 table wines produced by wine manufacturer licensees in the  
16 state. An applicant for an off-site tasting room permit shall  
17 file a written application with the board in such form and  
18 containing such information as the board may prescribe, along  
19 with proof of consent and approval from the appropriate  
20 governing authority in which the off-site tasting room is to  
21 be located and a filing fee of fifty dollars (\$50). All state  
22 and federal laws and regulations applicable to on-site tasting  
23 rooms shall apply to an off-site tasting room. Wine sold at an  
24 off-site tasting room for off-premises consumption may not  
25 exceed one case of wine per customer per day. For purposes of  
26 this subdivision, one case of wine means the equivalent of  
27 twelve 750-milliliter bottles of wine.

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

25           "(2) The manufacturer licensee shall keep and  
26 maintain all records required to be kept and maintained by  
27 manufacturer, wholesaler, and retailer licensees for the tax



1 so levied except that manufacturers are not required to  
2 maintain name, address, or other personal demographic  
3 information for sales as provided in subsection (h).

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

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

20 Section 2. This act shall become effective  
21 immediately following its passage and approval by the  
22 Governor, or its otherwise becoming law.