HB151

196557-3

By Representative Nordgren

RFD: Economic Development and Tourism

First Read: 19-MAR-19
SYNOPSIS: Under existing law, manufacturers, wholesalers, and retailers of alcoholic beverages are restricted in their ability to have a financial or business interest with one another.

This bill would authorize manufacturers, wholesalers, and retailers of alcoholic beverages to enter into certain limited business or financial relationships that comply with federal law.

Under existing law, breweries, wineries, and distilleries may operate an on-site tasting room to dispense and sell their own alcoholic beverages.

This bill would allow a licensed manufacturer of alcoholic beverages to dispense and sell at its on-site tasting room, alcoholic beverages that are manufactured in this state but not by the manufacturer, so long as the other manufacturer is under common ownership with the brewery, winery, or distillery.

This bill would define terms.
This bill would further provide for the taxation of beer and liquor.

Under existing law, a brewpub may not produce more than 10,000 barrels annually, must be located in a historical building, site, or district or an economically distressed area and must operate a restaurant or otherwise provide food.

This bill would remove the requirements that a brewpub be located in a historical or economically distressed area and operate a restaurant or otherwise provide food.

This bill would increase the limit on how much beer a brewpub may produce annually.

This bill would also allow a manufacturer to enter into alternating proprietorship arrangements with other manufacturers.

A BILL
TO BE ENTITLED
AN ACT

Relating to alcoholic beverages; to amend Sections 28-3-1, 28-3-4, 28-3A-6, as last amended by Act 2018-447, 2018 Regular Session, 28-4A-3, and 28-4A-4, Code of Alabama 1975; to add Section 28-3-208 to the Code of Alabama 1975; and to repeal Sections 28-4A-2 and 28-4A-6, Code of Alabama 1975, relating to definitions and legislative intent, respectively;
to authorize manufacturers, wholesalers, and retailers to 
enter into certain limited business or financial 
relationships; to allow a brewery, winery, or distillery to 
dispense and sell at its on-site tasting room alcoholic 
beverages transferred from another manufacturer under common 
ownership with the brewery, winery, or distillery; to provide 
further for taxation of beer and liquor; to define terms; to 
delete the requirements that brewpubs be located in certain 
areas and operate a restaurant or otherwise provide food; to 
increase the limit on how much beer a brewpub may produce 
annually; and to provide for alternating proprietorship 
arrangements among manufacturers.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 28-3-1 and 28-3-4, Code of 
Alabama 1975, are amended to read as follows:

"§28-3-1.

"As used in this title, the following words shall 
have the following meanings unless the context clearly 
indicates otherwise:

"(1) ALCOHOLIC BEVERAGES. Any alcoholic, spirituous, 
vinous, fermented, or other alcoholic beverage, or combination 
of liquors and mixed liquor, a part of which is spirituous, 
vinous, fermented, or otherwise alcoholic, and all drinks or 
drinkable liquids, preparations or mixtures intended for 
beverage purposes, which contain one-half of one percent or 
more of alcohol by volume, and shall include liquor, beer, and 
wine."
(2) ASSOCIATION. A partnership, limited partnership, or any form of unincorporated enterprise owned by two or more persons.

(3) BEER, or MALT OR BREWED BEVERAGES. Except as otherwise provided in this subdivision, any beer, lager beer, ale, porter, malt or brewed beverage, or similar fermented malt liquor containing one-half of one percent or more of alcohol by volume and not in excess of thirteen and nine-tenths percent by volume, by whatever name the same may be called.

(4) BOARD. The Alcoholic Beverage Control Board.

(5) BRANDY. All beverages which are an alcoholic distillate from the fermented juice, mash, or wine of fruit, or from the residue thereof, produced in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to the beverage, as bottled at not less than 80 degree proof.

(6) BREWPUB. Any premises upon which beer is actively and continuously manufactured or brewed, subject to the barrel production limitation prescribed in Chapter 4A, for consumption on or off the premises where manufactured, or for sale to any designated wholesaler licensee for resale to retail licensees.

(7) BREWERY. A manufacturer of beer.

(8) CARTON. The package or container or containers in which alcoholic beverages are originally
packaged for shipment to market by the manufacturer or its designated representatives or the importer.

"(9) CIDER. A fermented alcoholic beverage made from apple juice and containing not more than 8.5 percent alcohol by volume.

"(10) CLUB.

"a. Class I. A corporation or association organized or formed in good faith by authority of law and which must have at least 150 paid-up members. It must be the owner, lessee, or occupant of an establishment operated solely for the objects of a national, social, patriotic, political, or athletic nature or the like, but not for pecuniary gain, and the property as well as the advantages of which, belong to all the members and which maintains an establishment provided with special space and accommodations where, in consideration of payment, food with or without lodging is habitually served. The club shall hold regular meetings, continue its business through officers regularly elected, admit members by written application, investigation, and ballot and charge and collect dues from elected members.

"b. Class II. A corporation or association organized or formed in good faith by authority of law and which must have at least 100 paid-up members. It must be the owner, lessee, or occupant of an establishment operated solely for the objects of a national, social, patriotic, political, or athletic nature or the like. The club shall hold regular meetings, continue its business through officers regularly
elected, admit members by written application, investigation
and ballot and charge and collect dues from elected members.

"(11) COMMON OWNERSHIP. Two manufacturers shall be
considered to be under common ownership if a single entity has
a majority financial interest in and majority control of both
manufacturers.

"(12) CONTAINER. The single bottle, can, keg, bag, or other receptacle, not a carton, in which alcoholic beverages are originally packaged for the market by the brewpub, manufacturer, or importer and from which the alcoholic beverage is consumed by or dispensed to the public.

"(13) CORPORATION. A corporation or joint stock association organized under the laws of this state, the United States, or any other state, territory or foreign country, or dependency.

"(14) DISTILLERY. A manufacturer of liquor.

"(15) DRY COUNTY. Any county which by a majority of those voting voted in the negative in an election heretofore held under the applicable statutes at the time of the election or may hereafter vote in the negative in an election or special method referendum hereafter held in accordance with the provisions of Chapter 2 of this title, or held in accordance with the provisions of any act hereafter enacted permitting such election.

"(16) DRY MUNICIPALITY. Any municipality within a wet county which has, by its governing body or by a majority of those voting in a municipal election heretofore held in
accordance with the provisions of Section 28-2-22, or in a
municipal option election heretofore or hereafter held in
accordance with the provisions of Act 84-408, Acts of Alabama
1984, appearing as Chapter 2A of this title, or any act
hereafter enacted permitting municipal option election, voted
to exclude the sale of alcoholic beverages within the
corporate limits of the municipality.

"(13)(17) GENERAL WELFARE PURPOSES.

"a. The administration of public assistance as set
out in Sections 38-2-5 and 38-4-1;

"b. Services, including supplementation and
supplementary services under the federal Social Security Act,
to or on behalf of persons to whom such public assistance may
be given under Sections 38-2-5 and 38-4-1;

"c. Service to and on behalf of dependent, neglected
or delinquent children; and

"d. Investigative and referral services to and on
behalf of needy persons.

"(14)(18) HEARING COMMISSION. A body appointed by
the board to hear and decide all contested license
applications and all disciplinary charges against any licensee
for violation of this title or the regulations of the board.

"(15)(19) HOTEL. A building or buildings held out to
the public for housing accommodations of travelers or
transients, and shall include motel, but shall not include a
rooming house or boarding house.
"(16)(20) IMPORTER. Any person, association, or corporation engaged in importing alcoholic beverages, liquor, wine, or beer, manufactured outside of the United States of America into this state or for sale or distribution in this state, or to the board or to a licensee of the board.

"(17)(21) KEG. A pressurized factory sealed container with a capacity equal to or greater than five US gallons, from which beer is withdrawn by means of an external tap.

"(18)(22) LIQUOR. Any alcoholic, spirituous, vinous, fermented, or other alcoholic beverage, or combination of liquors and mixed liquor, a part of which is spirituous, fermented, vinous or otherwise alcoholic, and all drinks or drinkable liquids, preparations or mixtures intended for beverage purposes, which contain one-half of one percent or more of alcohol by volume, except beer and table wine.

"(19)(23) LIQUOR STORE. A liquor store operated by the board, where alcoholic beverages other than beer are authorized to be sold in unopened containers.

"(20)(24) MANUFACTURER. Any person, association, or corporation engaged in the producing, bottling, manufacturing, distilling, rectifying, or compounding of alcoholic beverages, liquor, beer, or wine in this state or for sale or distribution in this state or to the board or to a licensee of the board.
"(21)(25) MEAD. An alcoholic beverage produced by fermenting a solution of honey and water with grain mash and containing not more than 18 percent alcohol by volume.

"(22)(26) MEAL. A diversified selection of food some of which is not susceptible of being consumed in the absence of at least some articles of tableware and which cannot be conveniently consumed while one is standing or walking about.

"(23)(27) MINOR. Any person under 21 years of age; provided, however, in the event Section 28-1-5, shall be is repealed or otherwise shall be no longer in effect, thereafter the provisions of Section 26-1-1, shall govern.

"(24)(28) MUNICIPALITY. Any incorporated city or town of this state to include its police jurisdiction.

"(25)(29) PERSON. Every natural person, association, or corporation. Whenever used in a clause prescribing or imposing a fine or imprisonment, or both, such term as applied to association shall mean the partners or members thereof and as applied to corporation shall mean the officers thereof, except as to incorporated clubs the term person shall mean such individual or individuals who, under the bylaws of such clubs, shall have jurisdiction over the possession and sale of liquor therein.

"(26)(30) POPULATION. The population according to the last preceding or any subsequent decennial census of the United States, except where a municipality is incorporated subsequent to the last census, in which event, its population until the next decennial census shall be the population of the
municipality as determined by the judge of probate of the county as the official population on the date of its incorporation.

"(27)(31) RESTAURANT. A reputable place licensed as a restaurant, operated by a responsible person of good reputation and habitually and principally used for the purpose of preparing and serving meals for the public to consume on the premises.

"(28)(32) RETAILER. Any person licensed by the board to engage in the retail sale of any alcoholic beverages to the consumer.

"(29)(33) SALE or SELL. Any transfer of liquor, wine or beer for a consideration, and any gift in connection with, or as a part of, a transfer of property other than liquor, wine or beer for a consideration.

"(30)(34) SELLING PRICE. The total marked-up price of spirituous or vinous liquors sold by the board, exclusive of taxes levied thereon.

"(35) SMALL MANUFACTURER. A manufacturer that sells, on an annual basis, no more than 250,000 barrels of beer, 100,000 gallons of table wine, or 50,000 proof gallons of liquor, and that is no more than 25 percent owned, directly or indirectly, by a manufacturer that is not itself a small manufacturer.

"(31)(36) TABLE WINE. Except as otherwise provided in this subdivision, any wine containing not more than 24 percent alcohol by volume. Table wine does not include any
wine containing more than sixteen and one-half percent alcohol by volume that is made with herbs or flavors, except vermouth, or is an imitation or other than standard wine. Table wine is not liquor, spirituous, or vinous.

{32}(37) **UNOPENED CONTAINER.** A container containing alcoholic beverages, which has not been opened or unsealed subsequent to filling and sealing by the manufacturer or importer.

{33}(38) **WET COUNTY.** Any county which by a majority of those voting voted in the affirmative in an election heretofore held in accordance with the statutes applicable at the time of the election or may hereafter vote in the affirmative in an election or special method referendum held in accordance with the provisions of Chapter 2 of this title, or other statutes applicable at the time of the election.

{34}(39) **WET MUNICIPALITY.** Any municipality in a dry county which by a majority of those voting voted in the affirmative in a municipal option election heretofore or hereafter held in accordance with the provisions of Act 84-408, Acts of Alabama 1984, appearing as Chapter 2A of this title, as amended, or any act hereafter enacted permitting municipal option election, or any municipality which became wet by vote of the governing body or by the voters of the municipality heretofore or hereafter held under the special method referendum provisions of Section 28-2-22, or as hereafter provided, where the county has become dry subsequent to the elected wet status of the municipality.
"(35)(40) WHOLESALER. Any person licensed by the board to engage in the sale and distribution of table wine and beer, or either of them, within this state, at wholesale only, to be sold by export or to retail licensees or other wholesale licensees or others within this state lawfully authorized to sell table wine and beer, or either of them, for the purpose of resale only.

"(36)(41) WINE. All beverages made from the fermentation of fruits, berries, or grapes, with or without added spirits, and produced in accordance with the laws and regulations of the United States, containing not more than 24 percent alcohol by volume, and shall include all sparkling wines, carbonated wines, special natural wines, rectified wines, vermouths, vinous beverages, vinous liquors, and like products, including restored or unrestored pure condensed juice.

"(42) WINERY. A manufacturer of table wine.

§28-3-4.

(a) No manufacturer and no officer or director of any manufacturer shall at the same time be a distributor, wholesaler or retail dispenser retailer or an officer, director or stockholder or creditor of any distributor, wholesaler or retail dispenser retailer, nor, except as provided in this section, be the owner, proprietor or lessor of any place covered directly or indirectly by any distributor's or wholesaler's malt or brewed beverage liquor license.
(b) No distributor or wholesaler and no officer or director of any distributor or wholesaler shall at the same time be a manufacturer or retailer or be an officer, director, stockholder or creditor of a manufacturer or retailer or be the owner, proprietor or lessor of any place covered by any malt or brewed beverage or liquor license.

(c) No licensee licensed under this chapter shall directly or indirectly own any stock of, or have any financial interest in, any other class of business licensed under this chapter.

"(d) Except as provided in this section, no manufacturer, wholesaler or distributor shall in any wise manner be interested, either directly or indirectly, in the ownership or leasehold of any property or in any mortgage against the same for which a liquor or retail dispensers' retail license is granted, nor shall a manufacturer, wholesaler or distributor, either directly or indirectly, lend any moneys, credit or equivalent thereof to any retailer in equipping, fitting out or maintaining and conducting, either in whole or in part, an establishment or business operated under a liquor retail dispensers' retail license, excepting only the usual and customary credits allowed for returning packages or containers in which malt or brewed alcoholic beverages were packed for market by the manufacturer.

"(e) Except as provided in this section no manufacturer shall in any wise manner be interested, directly or indirectly, in the ownership or leasehold of any property
or any mortgage lien against the same, for which a
distributor's or wholesaler's license is granted nor shall a
manufacturer, either directly or indirectly, lend any moneys,
credit or their equivalent to any distributor or wholesaler in
equipping, fitting out or maintaining and conducting, either
in whole or in part, an establishment or business where malt
or brewed alcoholic beverages are licensed for sale by a
distributor or wholesaler, excepting only the usual credits
allowed for the return of packages or containers in which malt
or brewed alcoholic beverages were originally packed for the
market by the manufacturer.

"(f) No distributor, wholesaler, or retail dispenser
retailer shall in any wise manner, either directly or
indirectly, receive any credit, loan, moneys or the equivalent
thereof from any other licensee or from or through a
subsidiary or affiliate of another licensee or from any firm,
association or corporation, except a banking institution, in
which another licensee or any officer, director or firm
member of another licensee has a substantial interest or
exercises a control of its business policy for equipping,
fitting out, payment of license fee or maintaining and
conducting, either in whole or in part, an establishment or
business operated under a distributor's, wholesaler's or
retail dispenser's retailer's license, excepting only the
usual and customary credits allowed for the return of packages
or containers in which malt or brewed alcoholic beverages were
packed for the market by the manufacturer.
(g) The purpose of this section is to require a separation of the financial and business interest between the various classes of business regulated by this chapter, and no person or corporation shall by any device whatsoever directly or indirectly, evade the provisions of this section.

(h) Notwithstanding the foregoing, this section does not prohibit the following financial or business interests:

(1) An agreement between a manufacturer and retailer made in compliance with federal laws or regulations, including, but not limited to, an agreement authorizing the branding of a retailer's premises, provided no money, credit, or equivalent is paid or provided by the manufacturer to the retailer, and further provided that all costs of equipping, fitting out, maintaining, and conducting the retailer's licensed establishment are paid by the retailer.

(2) A manufacturer, importer, or wholesaler from being a member, donor, director, or officer of a nonprofit organization exempt from taxation under Section 501 of the Internal Revenue Code that holds a retail class license, regardless of the organization's purpose.

Section 2. Section 28-3-208 is added to the Code of Alabama 1975, to read as follows:

§28-3-208.

(a) Liquor sold directly at retail by a manufacturer at the licensed premises, as provided in Section 28-3A-6,
exempt from the taxes specified in Sections 28-3-200 to 28-3-205, inclusive.

(b) There is levied and shall be collected, on liquor sold directly at retail by a manufacturer at the licensed premises, as provided in Section 28-3A-6, a tax at the rate of four dollars ($4) per liter. The tax imposed shall be assessed by the board on the manufacturer at the time the liquor is allocated for the purpose of retail sale before being dispensed for consumption.

(c) All revenues collected under this section shall be paid into the State Treasury to the credit of the General Fund.

Section 3. Sections 28-3A-6, as last amended by Act 2018-447, 2018 Regular Session, 28-4A-3, and 28-4A-4, 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 rules adopted thereunder, the board shall issue to applicant a manufacturer license which shall authorize that authorizes 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 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 Each licensee shall mail to the board,
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 Each licensee shall keep at its principal place of business within the state, daily permanent records which shall show showing 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 time 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, shall 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 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 or otherwise manufactured in this state and transferred to the licensed premises directly from another manufacturer that is under common ownership, 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. For purposes of this subsection, the amount of beer directly transferred to a manufacturer for tastings, samplings, or retail sale may not exceed the amount of beer manufactured at the receiving manufacturer in a calendar year.

(2) Notwithstanding subdivision (1), a small 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 or otherwise
manufactured in this state and transferred to the licensed premises directly from another manufacturer that is under common ownership; provided, however, beer sold for off-premises consumption may not exceed 288 1,984 ounces per customer per day; may not be produced pursuant to a contract with another manufacturer; and shall and must be sealed, labeled, packaged, and taxed in accordance with state and federal laws, rules, 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 or otherwise manufactured in this state and transferred to the licensed premises directly from another manufacturer that is under common ownership; provided, however, liquor sold for off-premises consumption may not exceed 2.25 4.5 liters per customer per day and shall must 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.

"(5) A manufacturer shall not be required to destroy empty bottles or other packaging used by the manufacturer for retail sales under this subsection.

"(6) This subsection does not prohibit manufacturers from serving beer at retail from bulk tanks, provided a
manufacturer of beer is responsible for all taxes on beer served from a bulk serving tank.

"(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 or at an authorized off-site tasting room 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. Section 28-3-208. Taxes on beer shall be levied at the time the beer is allocated by the beer manufacturer for the purpose of retail sale before being dispensed for consumption. 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 small manufacturer licensee engaged in the

manufacture of beer in the state may donate and deliver up to

31 gallons of the manufacturer's beer to a licensed 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 nonprofit event shall be returned to the

manufacturer for disposal.

"(k) A small 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

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 nonprofit event shall be

returned to the manufacturer for disposal.

"(l) A manufacturer may store, on the licensed

premises, alcoholic beverages purchased or received from
outside the premises, provided the alcoholic beverages may not
be made available to the public unless otherwise provided by
law.

"(m) This section does not limit or prohibit
alternating proprietorships, as authorized under federal law,
in which the holder of a manufacturer license leases or
otherwise makes available its facility to another holder of a
manufacturer license. In this arrangement, the tenant
manufacturer shall maintain title to the alcoholic beverage at
all stages of the manufacturing process and shall be
responsible for all aspects associated with manufacturing the
product, including maintaining appropriate records, obtaining
label approval in its own name, and remitting the appropriate
taxes.

"§28-4A-3.

"(a) In addition to the licenses authorized to be
issued and renewed by the board pursuant to the Alcoholic
Beverage Licensing Code codified as Chapter 3A of this title,
the board, upon applicant's compliance with the provisions of
this chapter and with Chapter 3A and the regulations made
thereunder, is authorized to issue to a qualified applicant a
brewpub license which shall authorize the licensee to
manufacture or brew beer, in a quantity not to exceed 10,000
25,000 barrels in any one year and to sell beer brewed on the
licensed premises in unpackaged form at retail for on-premises
consumption at the licensed premises only; to sell beer brewed
on the licensed premises in packaged form at retail for
off-premises consumption, provided the beer sold for
off-premises consumption may not exceed 1,984 ounces per
customer per day and shall must be sealed, labeled, packaged,
and taxed in accordance with state and federal laws and
regulations; to sell beer brewed on the premises in original,
unopened barrel or keg containers to any licensed wholesaler
designated by a brewpub licensee pursuant to Sections 28-8-2
and 28-9-3 for resale to retail licensees; to donate and
deliver up to two kegs 31 gallons of the licensee's beer to a
licensed charitable nonprofit special event operated by or on
behalf of a nonprofit organization; provided, however,
donations shall be taxed in accordance with state and federal
laws and regulations, and any beer remaining at the conclusion
of the charitable event shall be returned to the manufacturer
for disposal; and to purchase beer, including draft or keg
beer, in original, unopened containers from licensed
wholesalers and to sell such beer at retail for on-premises
consumption only, in a room or rooms or place on the licensed
premises at all times accessible to the use and accommodation
of the general public, subject to the following conditions:

"(1) The proposed location of the premises shall
not, at the time of the original application, be prohibited by
a valid zoning ordinance or other ordinance in the valid
exercise of police power by the governing body of the
municipality or county in which the brewpub is located.

"(2) Beer brewed by the brewpub licensee shall be
packaged or contained in barrels or other original containers
from which the beer is to be dispensed only on the premises where brewed for consumption on or off the premises or sold in original, unopened barrel or keg containers to any designated wholesaler licensee for resale to retailer licensees.

"(3) The brewpub must contain and operate a restaurant or otherwise provide food for consumption on the premises.

"(4)(3) The brewpub may not sell any alcoholic beverages if it is not actively and continuously engaged in the manufacture or brewing of alcoholic beverages on the brewpub's licensed premises.

"(b) The annual license fee levied and prescribed for a license as a brewpub issued or renewed by the board pursuant to the authority of this chapter is $1,000.

"(c) Except as provided in this subsection, the provisions of this title shall be applicable. The provisions of Section 28-3-4 and subsection (b) of Section 28-3A-6, shall not be applicable with regard to beer brewed by the brewpub and sold and dispensed on the brewpub premises. In all other respects, Section 28-3-4, Section 28-3A-6(b), and Section 28-3A-6(i)(2) shall be applicable.

"S28-4A-4.

"(a) In addition to the licenses provided for by this chapter and any county or municipal license, there is levied on the brewpub for on-premises sales of beer brewed by the brewpub licensee the privilege or excise taxes imposed by Sections 28-3-184 and 28-3-190. Every brewpub 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 brewpub licensee
who is required to pay the taxes so imposed in the first
instance to fail or refuse to add to the sales 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
brewpub 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 and as an agent of the
county or municipality for the collection and payment of the
tax levied by Section 28-3-190. Taxes on beer shall be levied
at the time the beer is allocated for the purpose of retail
sale before being dispensed for consumption.

"(b) The brewpub shall be required to keep and
maintain all of the records otherwise required to be kept and
maintained by manufacturer, wholesaler, and retailer
licensees.

"(c) The brewpub shall appoint a licensed wholesaler
designee in order to preserve Section 28-9-1. In addition, for
For on-premises sales of beer brewed by the brewpub licensee,
the brewpub shall be exempt from Sections 28-9-3 through
28-9-11.

"(d) A small manufacturer may have a financial
interest in a brewpub, including a brewpub that has additional
retail-class licenses; provided, however, that this subsection
does not allow a manufacturer to have a financial interest
with any other licensed retail-class establishment. A small
manufacturer that has a financial interest in a brewpub may
not transfer alcoholic beverages directly from the
manufacturer to the brewpub; however, the brewpub may purchase
alcoholic beverages from an authorized wholesaler, or as
otherwise provided by law.

"(e) A brewpub may serve beer at retail from bulk
tanks, provided a brewpub is responsible for all taxes on beer
served from a bulk serving tank."

Section 4. Section 28-4A-2, Code of Alabama 1975,
providing definitions, and Section 28-4A-6, Code of Alabama
1975, providing legislative findings, are repealed.

Section 5. 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.