

1 HB350
2 199733-4
3 By Representatives Collins, Ellis, Moore (P), Nordgren, Whitt,
4 Lipscomb, Wilcox, Reynolds, Wadsworth, Scott, Brown (K), Wood
5 (D), Gaston, Ingram, Johnson, Brown (C), McMillan, Simpson and
6 Coleman
7 RFD: Commerce and Small Business
8 First Read: 04-APR-19

1 ENGROSSED

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3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 To provide for a wine direct shipper license; to
9 amend Section 28-1-4, Code of Alabama 1975, and to add Section
10 28-3A-6.1 to the Code of Alabama 1975; to allow a licensed
11 wine manufacturer or a manufacturer who holds a federal basic
12 wine manufacturing permit to obtain a wine direct shipper
13 permit from the Alcoholic Beverage Control Board to allow the
14 permittee to ship limited quantities of wine directly to
15 Alabama residents for their personal use; to provide for the
16 permitting procedure; to provide restrictions and requirements
17 on the direct shipment of wine; to provide for issuance and
18 renewal fees for the wine direct shipper permit; to authorize
19 delivery service carriers to deliver wine to residents; to
20 provide that the direct shipment of wine without a permit
21 constitutes a Class C misdemeanor; and in connection therewith
22 would have as its purpose or effect the requirement of a new
23 or increased expenditure of local funds within the meaning of
24 Amendment 621 of the Constitution of Alabama of 1901, now
25 appearing as Section 111.05 of the Official Recompilation of
26 the Constitution of Alabama of 1901, as amended.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 28-1-4, Code of Alabama 1975, is
2 amended to read as follows:

3 "§28-1-4.

4 "(a) The words and phrases used in this section
5 shall have the meanings ascribed to them in Section 28-3-1 and
6 any acts amendatory thereof, supplementary thereto or
7 substituted therefor.

8 "(b) It shall be unlawful for common or permit
9 carriers, operators of trucks, buses or other conveyances or
10 out-of-state manufacturers or suppliers to make delivery of
11 any alcoholic beverage from ~~without~~ outside the State of
12 Alabama to any person, association or corporation within the
13 state, except to the Alabama Alcoholic Beverage Control Board
14 and to manufacturers, importers, wholesalers and warehouses
15 licensed by the Alabama Alcoholic Beverage Control Board to
16 receive the alcoholic beverages so delivered.

17 "(c) (1) Notwithstanding subsection (b), a delivery
18 service carrier may transport and deliver shipments of wine to
19 a resident in the state who is at least 21 years of age at the
20 direction of a wine direct shipper permittee, as provided in
21 Section 28-3A-6.1. A delivery service carrier is not required
22 to maintain in the vehicle or within the possession of the
23 driver of the vehicle a bill of lading, consignment, or any
24 other documentary evidence of the cargo being transported
25 other than information available on the package shipping
26 label.

1 "(2) A delivery service carrier who transports and
2 delivers shipments of wine under this subsection shall file
3 quarterly reports with the Audit Division of the board and the
4 Sales and Use Tax Division of the Department of Revenue of all
5 wine shipments during the reporting period that report all of
6 the following with regard to each shipment:

7 "a. The name and business address of the wine direct
8 shipper permittee who directed the delivery service carrier to
9 ship wine under Section 28-3A-6.1.

10 "b. The weight of the shipment.

11 "c. The name and address of the consumer to whom the
12 wine was shipped.

13 "d. A unique tracking number.

14 "e. The date of delivery.

15 "(3) Reports made under subdivision (2) shall be
16 considered public records for purposes of Article 3,
17 commencing with Section 36-12-40, of Chapter 12 of Title 36
18 and shall be made available to law enforcement officers.

19 "(4) Any willful failure by a delivery service
20 carrier to comply with the reporting requirements in this
21 subsection that continues for more than 90 days after
22 receiving notice by the board or Department of Revenue of the
23 failure, may result in the suspension of the delivery service
24 carrier's license to operate in the state or the imposition of
25 any other penalty the relevant licensing authority in the
26 state is authorized to impose.

1 "~~(c)~~(d) Any violation of subsection ~~(a)~~ of this
2 ~~section (b)~~ shall be a misdemeanor, punishable as provided in
3 ~~paragraph subdivision~~ (1) of subsection (b) of Section
4 28-3A-25.

5 "~~(d) All laws or parts of law which conflict or are~~
6 ~~inconsistent with this section are hereby repealed, provided,~~
7 ~~however, the provisions of Section 28-1-3 are excluded."~~

8 Section 2. Section 28A-3A-6.1 is added to the Code
9 of Alabama 1975, to read as follows:

10 §28-3A-6.1.

11 (a) Any person licensed in this state as a wine
12 manufacturer or who holds a federal basic wine manufacturing
13 permit may obtain a wine direct shipper permit, as provided in
14 ~~this section, and may ship annually up to 18 cases of wine to~~
15 ~~any one consumer in a 12-month period, each case not exceeding~~
16 this section, and may ship no more than one case of wine per
17 calendar month to any one household, each case not exceeding
18 nine liters of wine. The wine shall be shipped directly to a
19 resident of Alabama who is at least 21 years of age for the
20 resident's personal use and not for resale.

21 (b) In order to receive a permit to ship wine to an
22 Alabama resident, the applicant for a wine direct shipper
23 permit shall do all of the following:

24 (1) File an application with the Alcoholic Beverage
25 Control Board.

26 (2) Pay a filing fee of two hundred dollars (\$200).

1 (3) Provide to the board a true copy of its current
2 manufacturer license issued in this state or its federal basic
3 wine manufacturing permit.

4 (c) A wine direct shipper permittee:

5 (1) May not ship more wine than is specified in
6 subsection (a) to any one consumer in a 12-month period.

7 (2) May not ship any wine to any premises licensed
8 by the board.

9 (3) Shall ensure that all containers of wine shipped
10 directly to a resident in this state are conspicuously labeled
11 with the words: "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21
12 OR OLDER REQUIRED FOR DELIVERY."

13 (4) If located outside of this state, shall report,
14 at the direction of the board, the total amount of wine
15 directly shipped to consumers in the state during the
16 preceding calendar year.

17 (5) Whether located within or outside of this state,
18 collect and properly remit all state and local sales or use
19 taxes and excise taxes due on sales to Alabama residents.

20 (6) Shall permit the board or the Department of
21 Revenue to perform an audit of the wine direct shipper
22 permittee's records upon request.

23 (7) Shall be deemed to have consented to the
24 jurisdiction of the board or any law enforcement agency and
25 the Alabama courts concerning enforcement of this section and
26 any related laws or administrative rules.

1 (d) A wine direct shipper permittee may renew its
2 permit with the board by paying annually a renewal fee of
3 ~~fifty dollars (\$50)~~ one hundred dollars (\$100) and providing
4 the board a true copy of its current manufacturer license
5 issued in this state.

6 (e) The board may promulgate rules pursuant to the
7 Alabama Administrative Procedure Act to implement this
8 section.

9 (f) The board may enforce the requirements of this
10 section to suspend or revoke a wine direct shipper permit by
11 the same administrative proceedings that apply to alcoholic
12 beverage licenses, and the board may accept payment of a fine
13 in lieu of suspension or revocation, such payments to be
14 determined by rule promulgated by the board.

15 (g) Shipments of wine direct to consumers in Alabama
16 from persons who do not possess a current wine direct shipper
17 permit pursuant to this section are prohibited, and any person
18 who knowingly makes, participates in, or transports such a
19 shipment is guilty of a Class C misdemeanor.

20 Section 3. Although this bill would have as its
21 purpose or effect the requirement of a new or increased
22 expenditure of local funds, the bill is excluded from further
23 requirements and application under Amendment 621, now
24 appearing as Section 111.05 of the Official Recompilation of
25 the Constitution of Alabama of 1901, as amended, because the
26 bill defines a new crime or amends the definition of an
27 existing crime.

1 Section 4. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Commerce and
Small Business..... 04-APR-19

Read for the second time and placed
on the calendar with 1 substitute
and..... 02-MAY-19

Read for the third time and passed
as amended..... 23-MAY-19
Yeas 77, Nays 11, Abstains 9

Jeff Woodard
Clerk