

1 SB274  
2 190110-4  
3 By Senators Singleton and Coleman-Madison  
4 RFD: Tourism  
5 First Read: 11-APR-19

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8 SYNOPSIS: Currently, there is no specific license  
9 issued by the Alcoholic Beverage Control Board  
10 relating to direct shipping of limited quantities  
11 of wine to Alabama residents for their personal  
12 use.

13 This bill would allow a licensed wine  
14 manufacturer to obtain a wine direct shipper permit  
15 from the Alcoholic Beverage Control Board to allow  
16 the permittee to ship limited quantities of wine  
17 directly to Alabama residents for their personal  
18 use.

19 This bill would authorize delivery service  
20 carriers to deliver wine directly to residents.

21 This bill would also provide that a person  
22 who ships wine directly to a resident without a  
23 permit is guilty of a Class C misdemeanor.

24 Amendment 621 of the Constitution of Alabama  
25 of 1901, now appearing as Section 111.05 of the  
26 Official Recompilation of the Constitution of  
27 Alabama of 1901, as amended, prohibits a general

1 law whose purpose or effect would be to require a  
2 new or increased expenditure of local funds from  
3 becoming effective with regard to a local  
4 governmental entity without enactment by a 2/3 vote  
5 unless: it comes within one of a number of  
6 specified exceptions; it is approved by the  
7 affected entity; or the Legislature appropriates  
8 funds, or provides a local source of revenue, to  
9 the entity for the purpose.

10 The purpose or effect of this bill would be  
11 to require a new or increased expenditure of local  
12 funds within the meaning of the amendment. However,  
13 the bill does not require approval of a local  
14 governmental entity or enactment by a 2/3 vote to  
15 become effective because it comes within one of the  
16 specified exceptions contained in the amendment.

17  
18 A BILL  
19 TO BE ENTITLED  
20 AN ACT  
21

22 To provide for a wine direct shipper license; to  
23 amend Section 28-1-4, Code of Alabama 1975, and to add Section  
24 28-3A-6.1 to the Code of Alabama 1975; to allow a licensed  
25 wine manufacturer to obtain a wine direct shipper permit from  
26 the Alcoholic Beverage Control Board to allow the permittee to  
27 ship limited quantities of wine directly to Alabama residents

1 for their personal use; to provide for the permitting  
2 procedure; to provide restrictions and requirements on the  
3 direct shipment of wine; to provide for issuance and renewal  
4 fees for the wine direct shipper permit; to authorize delivery  
5 service carriers to deliver wine to residents; to provide that  
6 the direct shipment of wine without a permit constitutes a  
7 Class C misdemeanor; and in connection therewith would have as  
8 its purpose or effect the requirement of a new or increased  
9 expenditure of local funds within the meaning of Amendment 621  
10 of the Constitution of Alabama of 1901, now appearing as  
11 Section 111.05 of the Official Recompilation of the  
12 Constitution of Alabama of 1901, as amended.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

16 "§28-1-4.

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

21 "(b) It shall be unlawful for common or permit  
22 carriers, operators of trucks, buses or other conveyances or  
23 out-of-state manufacturers or suppliers to make delivery of  
24 any alcoholic beverage from ~~without~~ outside the State of  
25 Alabama to any person, association or corporation within the  
26 state, except to the Alabama Alcoholic Beverage Control Board  
27 and to manufacturers, importers, wholesalers and warehouses

1 licensed by the Alabama Alcoholic Beverage Control Board to  
2 receive the alcoholic beverages so delivered.

3 "(c) Notwithstanding subsection (b), a delivery  
4 service carrier may transport and deliver shipments of wine to  
5 a resident in the state who is at least 21 years of age at the  
6 direction of a wine direct shipper permittee, as provided in  
7 Section 28-3A-6.1. A delivery service carrier is not required  
8 to maintain in the vehicle or within the possession of the  
9 driver of the vehicle a bill of lading, consignment, or any  
10 other documentary evidence of the cargo being transported  
11 other than information available on the package shipping  
12 label.

13 ~~"(c)(d) Any violation of subsection (a) of this~~  
14 ~~section (b) shall be a misdemeanor, punishable as provided in~~  
15 ~~paragraph subdivision (1) of subsection (b) of Section~~  
16 ~~28-3A-25.~~

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

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

22 §28-3A-6.1.

23 (a) Any person licensed in this state as a wine  
24 manufacturer who obtains a wine direct shipper permit, as  
25 provided in this section, may ship annually up to 24 cases of  
26 wine, each case not exceeding nine liters of wine. The wine  
27 shall be shipped directly to a resident of Alabama who is at

1 least 21 years of age for the resident's personal use and not  
2 for resale.

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

6 (1) File an application with the Alcoholic Beverage  
7 Control Board.

8 (2) Pay a filing fee of one hundred dollars (\$100).

9 (3) Provide to the board a true copy of its current  
10 manufacturer license issued in this state.

11 (c) A wine direct shipper permittee:

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

14 (2) May not ship any wine to any premises licensed  
15 by the board.

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

20 (4) If located outside of this state, shall report,  
21 at the direction of the board, the total amount of wine  
22 directly shipped to consumers in the state during the  
23 preceding calendar year.

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

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

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

8           (d) A wine direct shipper permittee may renew its  
9 permit with the board by paying annually a renewal fee of  
10 fifty dollars (\$50) and providing the board a true copy of its  
11 current manufacturer license issued in this state.

12           (e) The board may promulgate rules pursuant to the  
13 Alabama Administrative Procedure Act to implement this  
14 section.

15           (f) The board may enforce the requirements of this  
16 section to suspend or revoke a wine direct shipper permit by  
17 the same administrative proceedings that apply to alcoholic  
18 beverage licenses, and the board may accept payment of a fine  
19 in lieu of suspension or revocation, such payments to be  
20 determined by rule promulgated by the board.

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

26           Section 3. Although this bill would have as its  
27 purpose or effect the requirement of a new or increased

1 expenditure of local funds, the bill is excluded from further  
2 requirements and application under Amendment 621, now  
3 appearing as Section 111.05 of the Official Recompilation of  
4 the Constitution of Alabama of 1901, as amended, because the  
5 bill defines a new crime or amends the definition of an  
6 existing crime.

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