

1 SB184
2 203840-3
3 By Senators Sessions and Williams
4 RFD: Tourism
5 First Read: 13-FEB-20

SYNOPSIS: Under existing state law, the definition of beer does not include certain beverages that are classified as beer by the federal government for tax purposes.

This bill would revise the definition of beer.

Also under existing law, suppliers and wholesalers of beer are subject to laws governing their franchise agreements.

This bill would require all beverages sold by a manufacturer or supplier to a wholesaler to be subject to the laws governing suppliers and wholesalers of beer.

A BILL
TO BE ENTITLED
AN ACT

Relating to beer; to amend Section 28-3-1, Code of Alabama 1975, to revise the definition of beer, and to add

1 Section 28-9-9.1 to the Code of Alabama 1975, to require all
2 beverages sold by a manufacturer or supplier to a wholesaler
3 to be subject to the laws governing suppliers and wholesalers
4 of beer.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

8 "§28-3-1.

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

12 "(1) ALCOHOLIC BEVERAGES. Any alcoholic, spirituous,
13 vinous, fermented, or other alcoholic beverage, or combination
14 of liquors and mixed liquor, a part of which is spirituous,
15 vinous, fermented, or otherwise alcoholic, and all drinks or
16 drinkable liquids, preparations or mixtures intended for
17 beverage purposes, which contain one-half of one percent or
18 more of alcohol by volume, and shall include liquor, beer, and
19 wine.

20 "(2) ASSOCIATION. A partnership, limited
21 partnership, or any form of unincorporated enterprise owned by
22 two or more persons.

23 "(3) BEER, or MALT OR BREWED BEVERAGES. ~~Except as~~
24 ~~otherwise provided in this subdivision, any~~ a. Any beer, lager
25 beer, ale, porter, malt or brewed beverage, or similar
26 fermented ~~malt liquor~~ beverage containing one-half of one
27 percent or more of alcohol by volume and not in excess of

1 thirteen and nine-tenths percent alcohol by volume, ~~by~~
2 ~~whatever name the same may be called~~ brewed or produced from
3 malt, wholly or in part, or from any substitute for malt. Only
4 rice, grain of any kind, bran, glucose, sugar, or molasses are
5 substitutes for malt. The following materials may be used as
6 adjuncts in fermenting beer: Honey, fruit, fruit juice, fruit
7 concentrate, herbs, spices, and other flavorings.

8 "b. The term does not include any product defined as
9 liquor, table wine, or wine.

10 "(4) BOARD. The Alcoholic Beverage Control Board.

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

17 "(6) CARTON. The package or container or containers
18 in which alcoholic beverages are originally packaged for
19 shipment to market by the manufacturer or its designated
20 representatives or the importer.

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

24 "(8) CLUB.

25 "a. Class I. A corporation or association organized
26 or formed in good faith by authority of law and which must
27 have at least 150 paid-up members. It must be the owner,

1 lessee, or occupant of an establishment operated solely for
2 the objects of a national, social, patriotic, political, or
3 athletic nature or the like, but not for pecuniary gain, and
4 the property as well as the advantages of which, belong to all
5 the members and which maintains an establishment provided with
6 special space and accommodations where, in consideration of
7 payment, food with or without lodging is habitually served.
8 The club shall hold regular meetings, continue its business
9 through officers regularly elected, admit members by written
10 application, investigation, and ballot and charge and collect
11 dues from elected members.

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

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

26 "(10) CORPORATION. A corporation or joint stock
27 association organized under the laws of this state, the United

1 States, or any other state, territory or foreign country, or
2 dependency.

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

11 "(12) DRY MUNICIPALITY. Any municipality within a
12 wet county which has, by its governing body or by a majority
13 of those voting in a municipal election heretofore held in
14 accordance with the provisions of Section 28-2-22, or in a
15 municipal option election heretofore or hereafter held in
16 accordance with the provisions of Act 84-408, Acts of Alabama
17 1984, appearing as Chapter 2A of this title, or any act
18 hereafter enacted permitting municipal option election, voted
19 to exclude the sale of alcoholic beverages within the
20 corporate limits of the municipality.

21 "(13) GENERAL WELFARE PURPOSES.

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

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

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

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

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

9 "(15) HOTEL. A building or buildings held out to the
10 public for housing accommodations of travelers or transients,
11 and shall include motel, but shall not include a rooming house
12 or boarding house.

13 "(16) IMPORTER. Any person, association, or
14 corporation engaged in importing alcoholic beverages, liquor,
15 wine, or beer, manufactured outside of the United States of
16 America into this state or for sale or distribution in this
17 state, or to the board or to a licensee of the board.

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

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

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

4 "(20) MANUFACTURER. Any person, association, or
5 corporation engaged in the producing, bottling, manufacturing,
6 distilling, rectifying, or compounding of alcoholic beverages,
7 liquor, beer, or wine in this state or for sale or
8 distribution in this state or to the board or to a licensee of
9 the board.

10 "(21) MEAD. An alcoholic beverage produced by
11 fermenting a solution of honey and water with grain mash and
12 containing not more than 18 percent alcohol by volume.

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

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

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

23 "(25) PERSON. Every natural person, association, or
24 corporation. Whenever used in a clause prescribing or imposing
25 a fine or imprisonment, or both, such term as applied to
26 association shall mean the partners or members thereof and as
27 applied to corporation shall mean the officers thereof, except

1 as to incorporated clubs the term person shall mean such
2 individual or individuals who, under the bylaws of such clubs,
3 shall have jurisdiction over the possession and sale of liquor
4 therein.

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

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

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

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

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

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

8 "(32) UNOPENED CONTAINER. A container containing
9 alcoholic beverages, which has not been opened or unsealed
10 subsequent to filling and sealing by the manufacturer or
11 importer.

12 "(33) WET COUNTY. Any county which by a majority of
13 those voting voted in the affirmative in an election
14 heretofore held in accordance with the statutes applicable at
15 the time of the election or may hereafter vote in the
16 affirmative in an election or special method referendum held
17 in accordance with the provisions of Chapter 2 of this title,
18 or other statutes applicable at the time of the election.

19 "(34) WET MUNICIPALITY. Any municipality in a dry
20 county which by a majority of those voting voted in the
21 affirmative in a municipal option election heretofore or
22 hereafter held in accordance with the provisions of Act
23 84-408, Acts of Alabama 1984, appearing as Chapter 2A of this
24 title, as amended, or any act hereafter enacted permitting
25 municipal option election, or any municipality which became
26 wet by vote of the governing body or by the voters of the
27 municipality heretofore or hereafter held under the special

1 method referendum provisions of Section 28-2-22, or as
2 hereafter provided, where the county has become dry subsequent
3 to the elected wet status of the municipality.

4 "(35) WHOLESALER. Any person licensed by the board
5 to engage in the sale and distribution of table wine and beer,
6 or either of them, within this state, at wholesale only, to be
7 sold by export or to retail licensees or other wholesale
8 licensees or others within this state lawfully authorized to
9 sell table wine and beer, or either of them, for the purpose
10 of resale only.

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

19 Section 2. Section 28-9-9.1 is added to the Code of
20 Alabama 1975, to read as follows:

21 §28-9-9.1.

22 This chapter applies to any beverage sold by a
23 manufacturer or supplier to a wholesaler.

24 Section 3. The provisions of this act are severable.
25 If any part of this act is declared invalid or
26 unconstitutional, that declaration shall not affect the part
27 which remains.

1 Section 4. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.