SB184
203840-3
By Senators Sessions and Williams
RFD: Tourism
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
Section 28-9-9.1 to the Code of Alabama 1975, to require all beverages sold by a manufacturer or supplier to a wholesaler to be subject to the laws governing suppliers and wholesalers of beer.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 28-3-1, Code of Alabama 1975, is 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 a. Any beer, lager beer, ale, porter, malt or brewed beverage, or similar fermented malt liquor beverage containing one-half of one percent or more of alcohol by volume and not in excess of
thirteen and nine-tenths percent alcohol by volume, by whatever name the same may be called brewed or produced from malt, wholly or in part, or from any substitute for malt. Only rice, grain of any kind, bran, glucose, sugar, or molasses are substitutes for malt. The following materials may be used as adjuncts in fermenting beer: Honey, fruit, fruit juice, fruit concentrate, herbs, spices, and other flavorings.

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

"(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) 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.

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

"(8) 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.

"(9) 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 manufacturer or
importer and from which the alcoholic beverage is consumed by
or dispensed to the public.

"(10) 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.

"(11) 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.

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

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

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

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

"(29) 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) SELLING PRICE. The total marked-up price of
spirituous or vinous liquors sold by the board, exclusive of
taxes levied thereon.
"(31) 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) 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) 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) 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) 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) 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."

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

§28-9-9.1.

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

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.
Section 4. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.