

1 HB539
2 209909-1
3 By Representatives Daniels, Lawrence and Gray
4 RFD: Economic Development and Tourism
5 First Read: 11-MAR-21

SYNOPSIS: Under existing law, at its premises for off-premises consumption, a licensed brewery that produces less than 60,000 barrels of beer per year may sell at retail up to 288 ounces of beer per customer per day and a licensed distillery may sell at retail up to 2.25 liters of liquor per customer per day. Beer produced by a contract brewery is included for purposes of calculating whether a brewery has exceeded the 60,000 barrel limit.

This bill would eliminate the daily cap on the amount of beer or liquor that may be sold to customers by a brewery or distillery, respectively.

This bill would also provide that when calculating whether the licensed brewery produces less than 60,000 barrels annually, only beer provided by a contract brewery which is produced exclusively for the brewery shall be considered.

A BILL
TO BE ENTITLED

1 AN ACT

2
3 Relating to alcoholic beverages; to amend Section
4 28-3A-6, Code of Alabama 1975, to remove the daily cap on how
5 much beer or liquor may be sold by certain breweries or
6 distilleries to customers for off-premises consumption, and to
7 provide further for calculating which breweries qualify to
8 sell beer at their breweries for off-premises consumption.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

12 "§28-3A-6.

13 "(a) Upon the applicant's compliance with this
14 chapter and the rules adopted under this chapter, the board
15 shall issue to the applicant a manufacturer license which
16 ~~shall authorize~~ authorizes the licensee to manufacture or
17 otherwise distill, produce, ferment, brew, bottle, rectify, or
18 compound alcoholic beverages within this state for sale or
19 distribution within this state. No person shall manufacture or
20 otherwise distill, produce, ferment, brew, bottle, rectify, or
21 compound alcoholic beverages within this state or for sale or
22 distribution within this state or to the state, the board, or
23 any licensee of the board, unless the person or the authorized
24 representative of the person shall be granted a manufacturer
25 license issued by the board.

26 "(b) No manufacturer licensee shall sell any
27 alcoholic beverages direct to any retailer or for consumption

1 on the premises where sold except as specified under
2 subsection (h), nor sell or deliver any ~~such~~ alcoholic
3 beverages in other than original containers approved as to
4 capacity by the board and in accordance with standards of fill
5 prescribed by the U.S. Treasury Department, nor maintain or
6 operate within the state any place or places, other than the
7 place or places covered by the manufacturer license, where
8 alcoholic beverages are sold or where orders are taken.

9 "(c) Each manufacturer licensee shall ~~be required to~~
10 file with the board, prior to making any sales in Alabama, a
11 list of its labels to be sold in Alabama and shall file with
12 the board its federal certificate of label approvals or its
13 certificates of exemption as required by the U.S. Treasury
14 Department. All liquors and wines whose labels have not been
15 registered as herein provided for shall be considered
16 contraband and may be seized by the board or its agents, or
17 any peace officer of the State of Alabama without a warrant
18 and the goods shall be delivered to the board and disposed of
19 as provided by law.

20 "(d) All manufacturer licensees shall be required to
21 mail to the board prior to the twentieth day of each month a
22 consolidated report of all shipments of alcoholic beverages
23 made to each wholesaler during the preceding month. ~~Such~~ The
24 reports shall be in ~~such~~ the form and containing ~~such~~
25 information as the board may prescribe.

26 "(e) Every manufacturer shall keep at its principal
27 place of business within the state, daily permanent records

1 ~~which shall~~ that show the quantities of raw materials received
2 and used in the manufacture of alcoholic beverages, and the
3 quantities of alcoholic beverages manufactured and stored, the
4 sale of alcoholic beverages, the quantities of alcoholic
5 beverages stored for hire or transported for hire by or for
6 the licensee, and the names and addresses of the purchasers or
7 other recipients thereof.

8 "(f) Every place licensed as a manufacturer shall be
9 subject to inspection by members of the board or by ~~persons~~
10 ~~duly~~ individuals authorized and designated by the board at any
11 ~~and all times~~ time of the day or night as they may deem
12 necessary, for the detection of violations of this chapter, of
13 any law, or of the rules of the board, or for the purpose of
14 ascertaining the correctness of the records required to be
15 kept by the licensees. The books and records of ~~such~~ licensees
16 shall, at all times, be open to inspection by members of the
17 board, or by ~~persons~~ ~~duly~~ individuals authorized and
18 designated by the board. Members of the board and its ~~duly~~
19 authorized agents, without hindrance, may enter any place that
20 is subject to inspection hereunder or any place where ~~such~~
21 records are kept for the purpose of making ~~such~~ inspections
22 and making transcripts thereof.

23 "(g) Licenses issued under this section, unless
24 revoked in the manner provided in this chapter, shall be valid
25 for the license year commencing January 1 of each year.

26 "(h) (1) A manufacturer licensee actively and
27 continuously engaged in the manufacture of alcoholic beverages

1 on the manufacturer's licensed premises in the state may
2 conduct tastings or samplings on the licensed premises, as
3 regulated by the board except as to quantity and hours of
4 operation, or as otherwise provided by ~~statute~~ law, and for
5 that purpose may give away or sell alcoholic beverages
6 manufactured there for consumption on only one premises where
7 manufactured. All alcoholic beverages manufactured and
8 retained on the manufacturer's licensed premises for tasting
9 or sampling shall remain on the premises and be dispensed from
10 a barrel or keg or other original containers.

11 "(2) Notwithstanding subdivision (1), a manufacturer
12 licensee engaged in the manufacture of less than 60,000
13 barrels of beer per year may sell at retail on its licensed
14 premises in the state, for off-premises consumption, beer
15 produced at that licensed premises; provided, however, beer
16 sold for off-premises consumption: ~~May not exceed 288 ounces~~
17 ~~per customer per day~~; may not be produced pursuant to a
18 contract with another manufacturer, and shall be sealed,
19 labeled, packaged, and taxed in accordance with state and
20 federal laws and regulations. For purposes of this
21 subdivision, beer produced by a parent, subsidiary, or
22 affiliate of the licensee, or by a contract brewery
23 exclusively for the manufacturer, regardless of where the beer
24 is produced, shall be included for purposes of calculating the
25 60,000 barrel limit.

26 "(3) A manufacturer licensee engaged in the
27 manufacture of liquor on the manufacturer's licensed premises

1 in the state may sell at retail on its licensed premises, for
2 off-premises consumption, liquor manufactured at that licensed
3 premises; provided, however, liquor sold for off-premises
4 consumption ~~may not exceed 2.25 liters per customer per day~~
5 ~~and~~ shall be sealed, labeled, packaged, and taxed in
6 accordance with state and federal laws and regulations. The
7 manufacturer licensee shall keep and maintain records for
8 three years of all sales for off-premises consumption.

9 "(4) Notwithstanding subdivision (1), the board may
10 grant a permit allowing a manufacturer licensee engaged in the
11 manufacture of less than 50,000 gallons of table wine per year
12 in the state to establish and operate one additional off-site
13 tasting room to be used to conduct tastings or samplings and
14 to sell at retail the licensee's table wine. The board may
15 also grant a single permit allowing an association
16 representing the majority of wineries and grape growers in the
17 state to establish and operate one off-site tasting room to be
18 used to conduct tastings and samplings and to sell at retail
19 table wines produced by wine manufacturer licensees in the
20 state. An applicant for an off-site tasting room permit shall
21 file a written application with the board in ~~such~~ the form and
22 containing ~~such~~ information as the board may prescribe, along
23 with proof of consent and approval from the appropriate
24 governing authority in which the off-site tasting room is to
25 be located and a filing fee of fifty dollars (\$50). All state
26 and federal laws and regulations applicable to on-site tasting
27 rooms shall apply to an off-site tasting room. Wine sold at an

1 off-site tasting room for off-premises consumption may not
2 exceed one case of wine per customer per day. For purposes of
3 this subdivision, one case of wine means the equivalent of
4 twelve 750-milliliter bottles of wine.

5 "(i) (1) In addition to the licenses provided for by
6 this chapter, and any county or municipal license, there is
7 levied on the manufacturer of the alcoholic beverages
8 dispensed on the premises the privilege or excise tax imposed
9 on beer by Sections 28-3-184 and 28-3-190; and imposed on
10 table wine by Section 28-7-18; and imposed on liquor by
11 Sections 28-3-200 to 28-3-205, inclusive. Taxes on beer shall
12 be levied at the time the beer is allocated by the beer
13 manufacturer for the purpose of retail sale and not at the
14 time the beer is dispensed for consumption. Every manufacturer
15 licensee shall file the tax returns, pay the taxes, and
16 perform all obligations imposed on wholesalers at the times
17 and places set forth therein. It shall be unlawful for any
18 manufacturer licensee who is required to pay the taxes so
19 imposed in the first instance to fail or refuse to add to the
20 sale price and collect from the purchaser the required amount
21 of tax, it being the intent and purpose of this provision that
22 each of the taxes levied is in fact a tax on the consumer,
23 with the manufacturer licensee who pays the tax in the first
24 instance acting merely as an agent of the state for the
25 collection and payment of the tax levied by Section 28-3-184;
26 as an agent for the county or municipality for the collection
27 and payment of the tax levied by Section 28-3-190; as an agent

1 for the county or municipality for collection and payment of
2 the tax levied by Section 28-7-18; and as an agent for the
3 state for collection and payment of the tax levied by Sections
4 28-3-200 to 28-3-205, inclusive.

5 "(2) The manufacturer licensee shall keep and
6 maintain all records required to be kept and maintained by
7 manufacturer, wholesaler, and retailer licensees for the tax
8 so levied except that manufacturers are not required to
9 maintain name, address, or other personal demographic
10 information for sales as provided in subsection (e).

11 "(j) A manufacturer licensee engaged in the
12 manufacture of beer in the state may donate and deliver up to
13 31 gallons of the manufacturer's beer to a licensed nonprofit
14 special event operated by or on behalf of a nonprofit
15 organization. Donations shall be taxed in accordance with
16 state and federal laws and regulations. Any beer remaining at
17 the conclusion of the nonprofit event shall be returned to the
18 manufacturer for disposal.

19 "(k) A manufacturer licensee engaged in the
20 manufacture of table wine in the state may donate and deliver
21 up to two cases of the manufacturer's table wine to a licensed
22 nonprofit special event operated by or on behalf of a
23 nonprofit organization. Donations shall be taxed in accordance
24 with state and federal laws and regulations. Any table wine
25 remaining at the conclusion of the nonprofit event shall be
26 returned to the manufacturer for disposal."

1 Section 2. 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.