

1 HB613
2 213141-1
3 By Representative Ball
4 RFD: Economic Development and Tourism
5 First Read: 13-APR-21

8 SYNOPSIS: Under existing law, breweries that produce
9 less than 60,000 barrels of beer per year may sell
10 at retail beer that is manufactured at their
11 licensed premises for on-premises and off-premises
12 consumption under certain circumstances. Beer
13 produced by a contract brewery is included for
14 purposes of calculating whether a brewery has
15 exceeded the 60,000 barrel limit.

16 This bill would provide that beer
17 transferred from a brewery in accordance with
18 federal law to a brewery of the same ownership is
19 deemed to have been manufactured by the receiving
20 brewery at its licensed premises.

21 This bill would provide that when
22 calculating the 60,000 barrel limit, beer produced
23 by affiliates and beer brewed exclusively for the
24 manufacturer is included in the calculation.

25 This bill would also authorize the Alcoholic
26 Beverage Control Board to designate in its
27 manufacturer license the type or types of alcoholic

1 beverage, whether beer, wine, or liquor, a
2 manufacturer produces.

3
4 A BILL
5 TO BE ENTITLED
6 AN ACT

7
8 Relating to alcoholic beverages; to amend Section
9 28-3A-6, Code of Alabama 1975, to provide further for certain
10 breweries that sell beer at retail for on-premises and
11 off-premises consumption; and to provide further for
12 manufacturer licenses issued by the Alcoholic Beverage Control
13 Board.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

17 "§28-3A-6.

18 "(a) Upon applicant's compliance with this chapter
19 and the rules adopted under this chapter, the board shall
20 issue to an applicant a manufacturer license ~~which shall~~
21 ~~authorize~~ that authorizes the licensee to manufacture or
22 otherwise distill, produce, ferment, brew, bottle, rectify, or
23 compound alcoholic beverages within this state for sale or
24 distribution within this state. No person shall manufacture or
25 otherwise distill, produce, ferment, brew, bottle, rectify, or
26 compound alcoholic beverages within this state or for sale or
27 distribution within this state or to the state, the board, or

1 any licensee of the board, unless the person or the authorized
2 representative of the person shall be granted a manufacturer
3 license issued by the board. The board may consider each type
4 of alcoholic beverage manufactured, whether beer, wine, or
5 liquor, as a separate and distinct operation, and the license
6 shall contain a designation of the type or types of alcoholic
7 beverage for which a federal basic permit or brewer's notice
8 has been filed. No licensee shall manufacture a specified type
9 of alcoholic beverage until the license contains the
10 designation for that type.

11 "(b) No manufacturer licensee shall sell any
12 alcoholic beverages direct to any retailer or for consumption
13 on the premises where sold except as specified under
14 subsection (h), nor sell or deliver any such alcoholic
15 beverages in other than original containers approved as to
16 capacity by the board and in accordance with standards of fill
17 prescribed by the U.S. Treasury Department, nor maintain or
18 operate within the state any place or places, other than the
19 place or places covered by the manufacturer license, where
20 alcoholic beverages are sold or where orders are taken.

21 "(c) Each manufacturer licensee shall ~~be required to~~
22 file with the board, prior to making any sales in Alabama, a
23 list of its labels to be sold in Alabama and shall file with
24 the board its federal certificate of label approvals or its
25 certificates of exemption as required by the U.S. Treasury
26 Department. All liquors and wines whose labels have not been
27 registered as herein provided for shall be considered

1 contraband and may be seized by the board or its agents, or
2 any peace officer of the State of Alabama without a warrant
3 and the goods shall be delivered to the board and disposed of
4 as provided by law.

5 "(d) All manufacturer licensees shall be required to
6 mail to the board prior to the twentieth day of each month a
7 consolidated report of all shipments of alcoholic beverages
8 made to each wholesaler during the preceding month. ~~Such~~ The
9 reports shall be in such form and containing such information
10 as the board may prescribe.

11 "(e) Every manufacturer shall keep at its principal
12 place of business within the state, daily permanent records
13 ~~which shall~~ that show the quantities of raw materials received
14 and used in the manufacture of alcoholic beverages, and the
15 quantities of alcoholic beverages manufactured and stored, the
16 sale of alcoholic beverages, the quantities of alcoholic
17 beverages stored for hire or transported for hire by or for
18 the licensee, and the names and addresses of the purchasers or
19 other recipients thereof.

20 "(f) Every place licensed as a manufacturer shall be
21 subject to inspection by members of the board or by ~~persons~~
22 ~~duly~~ individuals authorized and designated by the board at any
23 ~~and all times~~ time of the day or night as they ~~may~~ deem
24 necessary, for the detection of violations of this chapter, of
25 any law, or of the rules of the board, or for the purpose of
26 ascertaining the correctness of the records required to be
27 kept by the licensees. The books and records of ~~such~~ licensees

1 shall, at all times, be open to inspection by members of the
2 board, or by ~~persons~~ duly individuals authorized and
3 designated by the board. Members of the board and its ~~duly~~
4 authorized agents, without hindrance, may enter any place that
5 is subject to inspection hereunder or any place where ~~such~~
6 records are kept for the purpose of making ~~such~~ inspections
7 and making transcripts thereof.

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

11 "(h) (1) A manufacturer licensee actively and
12 continuously engaged in the manufacture of alcoholic beverages
13 on the manufacturer's licensed premises in the state may
14 conduct tastings or samplings on the licensed premises, as
15 regulated by the board except as to quantity and hours of
16 operation, or as otherwise provided by ~~statute~~ law, and for
17 that purpose give away or sell alcoholic beverages
18 manufactured there for consumption on only one premises where
19 manufactured. All alcoholic beverages manufactured and
20 retained on the manufacturer's licensed premises for tasting
21 or sampling shall remain on the premises and be dispensed from
22 a barrel or keg or other original containers.

23 "(2) Notwithstanding subdivision (1), a manufacturer
24 licensee engaged in the manufacture of less than 60,000
25 barrels of beer per year may sell at retail on its licensed
26 premises in the state, for off-premises consumption, beer
27 produced at that licensed premises; provided, however, beer

1 sold for off-premises consumption: May not exceed 288 ounces
2 per customer per day; may not be produced pursuant to a
3 contract with another manufacturer; and shall be sealed,
4 labeled, packaged, and taxed in accordance with state and
5 federal laws and regulations. ~~For purposes of this~~
6 ~~subdivision, beer produced by a parent, subsidiary, or~~
7 ~~affiliate of the licensee, or by a contract brewery,~~
8 ~~regardless of where the beer is produced, shall be included~~
9 ~~for purposes of calculating the 60,000 barrel limit. For the~~
10 purposes of calculation, the 60,000 barrel limit shall include
11 all beer produced by the manufacturer, all beer produced by a
12 parent, subsidiary, or affiliate of the manufacturer, and all
13 beer brewed exclusively for the manufacturer.

14 "(3) For purposes of the retail sales permitted by a
15 qualifying manufacturer under subdivisions (1) and (2), beer
16 may be transferred directly between qualifying manufacturers
17 of the same ownership in accordance with all applicable state
18 and federal laws, rules, and regulations and sold at retail
19 pursuant to this subsection as if it were manufactured or
20 produced at the receiving manufacturer's licensed premises;
21 provided, however, if at any time the combined total barrelage
22 production of the manufacturers exceeds the 60,000-barrel
23 limit as provided in subdivision (2), retail sales of
24 transferred beer pursuant to this subdivision is not
25 permitted. Taxes shall be levied at the time the beer is
26 allocated by the receiving manufacturer for the purpose of
27 retail sale in accordance with subdivision (i)(1). For

1 purposes of this subdivision, "same ownership" means at least
2 75 percent ownership or control of one manufacturer by another
3 manufacturer, or by the same persons for both manufacturers.

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

14 ~~"(4)~~ (5) Notwithstanding subdivision (1), the board
15 may grant a permit allowing a manufacturer licensee engaged in
16 the manufacture of less than 50,000 gallons of table wine per
17 year in the state to establish and operate one additional
18 off-site tasting room to be used to conduct tastings or
19 samplings and to sell at retail the licensee's table wine. The
20 board may also grant a single permit allowing an association
21 representing the majority of wineries and grape growers in the
22 state to establish and operate one off-site tasting room to be
23 used to conduct tastings and samplings and to sell at retail
24 table wines produced by wine manufacturer licensees in the
25 state. An applicant for an off-site tasting room permit shall
26 file a written application with the board in ~~such~~ the form and
27 containing ~~such~~ the information as the board may prescribe,

1 along with proof of consent and approval from the appropriate
2 governing authority in which the off-site tasting room is to
3 be located and a filing fee of fifty dollars (\$50). All state
4 and federal laws and regulations applicable to on-site tasting
5 rooms shall apply to an off-site tasting room. Wine sold at an
6 off-site tasting room for off-premises consumption may not
7 exceed one case of wine per customer per day. For purposes of
8 this subdivision, one case of wine means the equivalent of
9 twelve 750-milliliter bottles of wine.

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

1 with the manufacturer licensee who pays the tax in the first
2 instance acting merely as an agent of the state for the
3 collection and payment of the tax levied by Section 28-3-184;
4 as an agent for the county or municipality for the collection
5 and payment of the tax levied by Section 28-3-190; as an agent
6 for the county or municipality for collection and payment of
7 the tax levied by Section 28-7-18; and as an agent for the
8 state for collection and payment of the tax levied by Sections
9 28-3-200 to 28-3-205, inclusive.

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

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

24 "(k) A manufacturer licensee engaged in the
25 manufacture of table wine in the state may donate and deliver
26 up to two cases of the manufacturer's table wine to a licensed
27 nonprofit special event operated by or on behalf of a

1 nonprofit organization. Donations shall be taxed in accordance
2 with state and federal laws and regulations. Any table wine
3 remaining at the conclusion of the nonprofit event shall be
4 returned to the manufacturer for disposal."

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