

1 SB322
2 209574-2
3 By Senators Givhan, Gudger and Barfoot
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 11-MAR-21

1 TO BE ENTITLED

2 AN ACT

3
4 Relating to alcoholic beverages; to amend Section
5 28-3A-6, Code of Alabama 1975, to provide further for certain
6 breweries that sell beer at retail for on-premises and
7 off-premises consumption.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

11 "§28-3A-6.

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

25 "(b) No manufacturer licensee shall sell any
26 alcoholic beverages direct to any retailer or for consumption
27 on the premises where sold except as specified under

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

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

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

25 "(e) Every manufacturer shall keep at its principal
26 place of business within the state, daily permanent records
27 ~~which shall~~ that show the quantities of raw materials received

1 and used in the manufacture of alcoholic beverages, and the
2 quantities of alcoholic beverages manufactured and stored, the
3 sale of alcoholic beverages, the quantities of alcoholic
4 beverages stored for hire or transported for hire by or for
5 the licensee, and the names and addresses of the purchasers or
6 other recipients thereof.

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

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

25 "(h) (1) A manufacturer licensee actively and
26 continuously engaged in the manufacture of alcoholic beverages
27 on the manufacturer's licensed premises in the state may

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

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

25 "(3) For purposes of subdivisions (1) and (2), beer
26 transferred in accordance with applicable federal laws and
27 regulations to a manufacturer of the same ownership engaged in

1 the manufacture of less than 60,000 barrels of beer per year
2 in accordance with subdivision (2) shall be deemed to have
3 been manufactured or produced at the receiving manufacturer's
4 licensed premises. For purposes of this subdivision, the term
5 "same ownership" means one manufacture is at least
6 seventy-five percent owned or controlled by the other
7 manufacturer.

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

18 ~~"(4)~~ (5) Notwithstanding subdivision (1), the board
19 may grant a permit allowing a manufacturer licensee engaged in
20 the manufacture of less than 50,000 gallons of table wine per
21 year in the state to establish and operate one additional
22 off-site tasting room to be used to conduct tastings or
23 samplings and to sell at retail the licensee's table wine. The
24 board may also grant a single permit allowing an association
25 representing the majority of wineries and grape growers in the
26 state to establish and operate one off-site tasting room to be
27 used to conduct tastings and samplings and to sell at retail

1 table wines produced by wine manufacturer licensees in the
2 state. An applicant for an off-site tasting room permit shall
3 file a written application with the board in ~~such~~ the form and
4 containing ~~such~~ the information as the board may prescribe,
5 along with proof of consent and approval from the appropriate
6 governing authority in which the off-site tasting room is to
7 be located and a filing fee of fifty dollars (\$50). All state
8 and federal laws and regulations applicable to on-site tasting
9 rooms shall apply to an off-site tasting room. Wine sold at an
10 off-site tasting room for off-premises consumption may not
11 exceed one case of wine per customer per day. For purposes of
12 this subdivision, one case of wine means the equivalent of
13 twelve 750-milliliter bottles of wine.

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

1 imposed in the first instance to fail or refuse to add to the
2 sale price and collect from the purchaser the required amount
3 of tax, it being the intent and purpose of this provision that
4 each of the taxes levied is in fact a tax on the consumer,
5 with the manufacturer licensee who pays the tax in the first
6 instance acting merely as an agent of the state for the
7 collection and payment of the tax levied by Section 28-3-184;
8 as an agent for the county or municipality for the collection
9 and payment of the tax levied by Section 28-3-190; as an agent
10 for the county or municipality for collection and payment of
11 the tax levied by Section 28-7-18; and as an agent for the
12 state for collection and payment of the tax levied by Sections
13 28-3-200 to 28-3-205, inclusive.

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

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

1 "(k) A manufacturer licensee engaged in the
2 manufacture of table wine in the state may donate and deliver
3 up to two cases of the manufacturer's table wine to a licensed
4 nonprofit special event operated by or on behalf of a
5 nonprofit organization. Donations shall be taxed in accordance
6 with state and federal laws and regulations. Any table wine
7 remaining at the conclusion of the nonprofit event shall be
8 returned to the manufacturer for disposal."

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