

1 SB259
2 217575-1
3 By Senator Smitherman
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 23-FEB-22

SYNOPSIS: Existing law states that a beer manufacturer that sells less than 60,000 barrels of beer annually may have a financial interest in a brewpub.

This bill would provide that a beer manufacturer that produces more than 60,000 barrels annually may have a financial interest in no more than one brewpub.

This bill would provide that the annual barrel production limit includes beer produced by affiliate producers and beer produced exclusively for that manufacturer.

A BILL
TO BE ENTITLED
AN ACT

Relating to brewpubs; to amend Section 28-4A-3, Code of Alabama 1975, as last amended by Act 2021-454 of the 2021 Regular Session; to provide further for the annual barrel

1 production limit that allows a beer manufacturer to have a
2 financial interest in a brewpub.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 28-4A-3, Code of Alabama 1975, as
5 last amended by Act 2021-454 of the 2021 Regular Session, is
6 amended to read as follows:

7 "§28-4A-3.

8 "(a) In addition to the licenses authorized to be
9 issued and renewed by the board pursuant to ~~the Alcoholic~~
10 ~~Beverage Licensing Code codified as Chapter 3A of this title,~~
11 the board, upon applicant's compliance with this chapter,
12 Chapter 3A, and the rules adopted thereunder, and the
13 conditions set forth in subsection (b), may issue to a
14 qualified applicant a brewpub license which shall authorize
15 the licensee to do all of the following:

16 "(1) Manufacture or brew beer, in a quantity not to
17 exceed 10,000 barrels in any one year, and to sell beer brewed
18 on the licensed premises in unpackaged form at retail for
19 on-premises consumption at the licensed premises only.

20 "(2) Sell beer brewed on the licensed premises in
21 packaged form at retail for off-premises consumption, provided
22 the beer sold for off-premises consumption may not exceed 864
23 ounces per customer per day and shall be sealed, labeled,
24 packaged, and taxed in accordance with state and federal laws
25 and regulations.

26 "(3) Sell beer brewed on the premises in original,
27 unopened barrel or keg containers to any licensed wholesaler

1 designated by a brewpub licensee pursuant to Sections 28-8-2
2 and 28-9-3 for resale to retail licensees.

3 "(4) Donate and deliver up to 31 gallons of the
4 licensee's beer to a licensed charitable special event
5 operated by or on behalf of a nonprofit organization;
6 provided, however, donations shall be taxed in accordance with
7 state and federal laws and regulations, and any beer remaining
8 at the conclusion of the charitable event shall be returned to
9 the brewpub for disposal.

10 "(5) Purchase beer, including draft or keg beer, in
11 original, unopened containers from licensed wholesalers and to
12 sell such beer at retail for on-premises consumption only, in
13 a room or rooms or place on the licensed premises at all times
14 accessible to the use and accommodation of the general public.

15 "(b) A brewpub is subject to all of the following
16 conditions:

17 "(1) The proposed location of the premises shall
18 not, at the time of the original application, be prohibited by
19 a valid zoning ordinance or other ordinance in the valid
20 exercise of police power by the governing body of the
21 municipality or county in which the brewpub is located.

22 "(2) Beer brewed by the brewpub licensee shall be
23 packaged or contained in barrels from which the beer is to be
24 dispensed only on the premises where brewed for consumption on
25 the premises or sold in original, unopened barrel or keg
26 containers to any designated wholesaler licensee for resale to
27 retailer licensees.

1 "(3) The brewpub must contain and operate a
2 restaurant or otherwise provide food for consumption on the
3 premises.

4 "(4) The brewpub may not sell any alcoholic
5 beverages if it is not actively and continuously engaged in
6 the manufacture or brewing of alcoholic beverages on the
7 brewpub's licensed premises.

8 "(c) The annual license fee levied and prescribed
9 for a license as a brewpub issued or renewed by the board is
10 one thousand dollars (\$1,000).

11 "(d) (1) A manufacturer ~~that sells, on an annual~~
12 ~~basis, an amount equal to no more than 60,000 barrels of beer,~~
13 may have a financial interest in ~~a brewpub~~ one or more
14 brewpubs, including a brewpub that also has a restaurant
15 retail license, provided the manufacturer may not transfer
16 alcoholic beverages directly from the manufacturer to the
17 brewpub, but may purchase alcoholic beverages from an
18 authorized wholesaler or as otherwise provided by law, and may
19 not have a financial interest in any retailer other than a
20 brewpub.

21 "(2) Notwithstanding subdivision (1) a manufacturer
22 that produces, on an annual basis, more than 60,000 barrels of
23 beer may have a financial interest in no more than one
24 brewpub. For purposes of calculation, the 60,000 barrel limit
25 shall include all beer produced by the manufacturer, all beer
26 produced by a parent, subsidiary, or affiliate of the

1 manufacturer, and all beer produced exclusively for the
2 manufacturer.

3 "(e) Section 28-3-4 and subsection (b) of Section
4 28-3A-6 shall not be applicable with regard to beer brewed by
5 either of the following and sold and dispensed on the brewpub
6 premises:

7 "(1) The brewpub.

8 "(2) A manufacturer described in, and in compliance
9 with, subsection (d)."

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