

1 SB315  
2 215660-2  
3 By Senator Jones  
4 RFD: Tourism  
5 First Read: 17-MAR-22

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Relating to alcoholic beverages; to amend Section  
12 28-3A-20.4, Code of Alabama 1975, to provide that a nonprofit  
13 organization may apply for and be issued a license to host a  
14 wine festival; to further provide for the application process  
15 and conditions of licensure for a license to host or  
16 participate in a wine festival; and to further provide for the  
17 collection and remittance of taxes due on sale of wine at a  
18 wine festival.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Section 28-3A-20.4, Code of Alabama 1975,  
21 is amended to read as follows:

22 "§28-3A-20.4.

23 "(a) The Legislature finds and declares that this  
24 section has been enacted pursuant to the authority granted to  
25 the state under the Twenty-first Amendment to the United  
26 States Constitution and the powers reserved to the state under  
27 the Tenth Amendment to the United States Constitution and the

1 inherent powers of the state under the Constitution of Alabama  
2 of 1901. It is the intent of the Legislature that this section  
3 maintains the current three-tier system of control over the  
4 sale, distribution, purchase, transportation, manufacture,  
5 consumption, and possession of alcoholic beverages in the  
6 state and promotes the health, safety, and welfare of  
7 residents of this state.

8 "(b) (1) Notwithstanding any other section of this  
9 title, including, but not limited to, Sections 28-3A-6,  
10 28-3A-25, and 28-7-4, upon application made on a form provided  
11 by the board at least 25 days in advance of the event for  
12 which a license is sought ~~and accompanied by a fee not to~~  
13 ~~exceed fifty dollars (\$50)~~, the board shall issue a license  
14 for a wine festival to a manufacturer of wine licensed by the  
15 board manufacturing at least 500 gallons of table wine in this  
16 state annually; a retailer; an organization comprised entirely  
17 of grape growers, wineries, or grape growers and wineries; a  
18 municipality; a county; or an incorporated arts council, main  
19 street program, 501(c) organization, other nonprofit  
20 organization as that term is defined by rule of the board, or  
21 downtown development entity upon such terms and conditions as  
22 the board may prescribe by rule.

23 "(2) The wine festival license shall authorize the  
24 licensee to host a festival at which wine festival participant  
25 licensees may dispense tastings and sell at retail to  
26 individuals physically present at the festival for on-premises

1 or off-premises consumption and for personal use and not for  
2 resale, subject to subsection (e).

3 "(3) If the applicant for a wine festival license is  
4 already a licensee of the board at the time of application,  
5 the board may not require any additional bond for the wine  
6 festival licensure and may not require an in-person  
7 appointment as part of the application process, and the  
8 application shall only require submission of all of the  
9 following information:

10 "a. The name and address of the applicant, and photo  
11 identification.

12 "b. The start and end date of the festival.

13 "c. A description of the wine festival location. If  
14 the applicant does not own or control the wine festival  
15 location, then the applicant shall include written permission  
16 by the person with ownership or control over the property for  
17 the wine festival licensee and any wine festival participant  
18 licensees to use the property for that wine festival.

19 "(4) If, at the time of application for a wine  
20 festival license, the applicant possesses a liquor liability  
21 insurance policy that would cover the activities to be  
22 performed by that applicant and wine festival participant  
23 licensees at that wine festival, then the applicant and any  
24 applicants for a wine festival participant license who would  
25 be covered by the insurance policy shall not be required to  
26 purchase any additional liquor liability insurance for the  
27 festival licensure.

1           "(c) A wine festival licensed under this section may  
2 not operate for more than five consecutive days.

3           "(d) (1) Upon application made on a form provided by  
4 the board at least 15 days in advance of the event for which a  
5 license is sought ~~and accompanied by a fee not to exceed~~  
6 ~~fifteen dollars (\$15)~~, the board shall issue a wine festival  
7 participant license to any retailer or any manufacturer of  
8 table wine licensed by the board that manufactures at least  
9 500 gallons of table wine in this state annually.

10           "(2) A wine festival participant license shall  
11 authorize the licensee to dispense tastings and sell at retail  
12 to individuals physically present at the festival for  
13 on-premises consumption or off-premises consumption and for  
14 personal use and not for resale, subject to subsection (e).

15           "(3) If the applicant for a wine festival  
16 participant license is already a licensee of the board at the  
17 time of application, the board may not require any additional  
18 bond for the wine festival participant licensure and may not  
19 require an in-person appointment as part of the application  
20 process, and the application shall only require submission of  
21 all of the following information:

22           "a. The name and address of the applicant, and photo  
23 identification.

24           "b. The start and end date of the festival.

25           "c. A description of the wine festival location.

26           "(4) If, at the time of application for a wine  
27 festival participant license, the applicant possesses a liquor

1 liability insurance policy that would cover the activities to  
2 be performed by that applicant at that wine festival, then the  
3 applicant shall not be required to purchase any additional  
4 liquor liability insurance for the festival licensure.

5 "(e) (1) Wine sold at a wine festival for  
6 off-premises consumption shall only be sold by a wine festival  
7 participant licensee and shall be sealed, labeled, and  
8 packaged in accordance with local, state, and federal laws and  
9 regulations.

10 "(2) A wine festival participant licensee may not  
11 sell more than one case of wine to any individual per  
12 festival.

13 "(3) For purposes of this section, one case of wine  
14 means the equivalent of 12 750-milliliter bottles of wine.

15 "(f) The sale of wine at any wine festival may not  
16 be permitted on any Sunday in a county or municipality that  
17 has not authorized alcoholic beverages to be sold on Sunday.

18 "(g) If a wine festival is to take place entirely on  
19 the premises of the winery that was granted the license to  
20 host the wine festival or a winery that is a member of the  
21 organization granted the license to host the festival, the  
22 board may not require any fee for the wine festival license or  
23 any wine festival participant license relating to that  
24 festival.

25 "(h) (1) Each wine festival participant licensee  
26 participating in a wine festival shall collect and remit all  
27 state ~~and local~~ sales and use taxes and all state excise and

1 other taxes due on the sale of wine by the licensee to  
2 customers at retail.

3 "(2) Notwithstanding subdivision (1), a wine  
4 festival participant licensee that already is a licensee of  
5 the board at the time of application for the wine festival  
6 participant license, in a method and manner established by the  
7 Department of Revenue, shall include the collection and  
8 remittance of all state taxes due on the sale of wine at the  
9 festival in the same method and manner as other sale of wine  
10 at retail.

11 "(3) Each wine festival participant licensee may  
12 collect all the county and local sales and use taxes and  
13 excise and other taxes due on the sale of wine at the festival  
14 and remit those taxes to the wine festival licensee, in a  
15 manner and method established by the wine festival licensee.  
16 The wine festival licensee shall then remit the county and  
17 local sales and use taxes and excise and other taxes to the  
18 appropriate local body within seven days following the  
19 conclusion of the wine festival, whether or not the wine  
20 festival licensee is exempt from sales tax by law.

21 "(4)a. A wine festival licensee shall register with  
22 the county governing body and, if applicable, municipal  
23 governing body, no less than seven days prior to the wine  
24 festival. This registration shall include any information  
25 necessary to ensure that the proper sales tax is collected and  
26 remitted from all sales by each wine festival participant,  
27 including, but not limited to, a list of all wine festival

1 participant licensees for that wine festival and contact  
2 information for each licensee.

3 "b. The wine festival licensee shall collect county  
4 and local sales and use taxes for sales made by all wine  
5 festival participant licensees at a wine festival which have  
6 elected to remit taxes through the wine festival licensee  
7 pursuant to subdivision (3), whether or not that wine festival  
8 licensee is exempt from sales tax by law. The wine festival  
9 licensee shall then remit the sales and use taxes as provided  
10 in subdivision (3).

11 "c. Each wine festival licensee and wine festival  
12 participant licensee shall be subject to audit by the county  
13 and municipal governing body of the location at which the wine  
14 festival occurs for the county and local sales tax remitted by  
15 or on behalf of that licensee, and shall be responsible for  
16 any unreported sales or unremitted sales tax, including  
17 unreported or unremitted sales tax related to the failure of  
18 that licensee to fully remit and record any sale during the  
19 wine festival. Failure to remit sales tax pursuant to this act  
20 shall be enforced pursuant to Chapter 23 of Title 40.

21 "(i) The board may not limit or prohibit the serving  
22 or featuring of food at a licensed wine festival, provided  
23 that the person serving or featuring food complies with all  
24 applicable laws and rules.

25 "(j) A wine festival participant licensee shall not  
26 be required to apply for and purchase any county or municipal  
27 business license or alcoholic beverage licensure fee in order



1 to participate in a wine festival pursuant to this section;  
2 provided, that the wine festival licensee for that wine  
3 festival is in compliance with paragraph (h) (4) a..

4 "~~(j)~~ (k) For purposes of this section, "retailer"  
5 means a retailer licensed for off-premises consumption of  
6 table wine.

7 "~~(k)~~ (l) The board may adopt rules to implement this  
8 section, including, but not limited to, rules regarding the  
9 liability of a wine festival participant licensee.

10 "~~(l)~~ (m) If any provision of this section or its  
11 application to any person or circumstance is determined by a  
12 court to be invalid or unconstitutional, that provision shall  
13 be stricken and the remaining provisions shall be construed in  
14 accordance with the intent of the Legislature to further  
15 limit, rather than expand, commerce in alcoholic beverages,  
16 including by prohibiting any commerce in alcoholic beverages  
17 not expressly authorized, and to enhance strict regulatory  
18 control over taxation, distribution, and sale of alcoholic  
19 beverages through the existing uniform system of regulation of  
20 alcoholic beverages."

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

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Senate

Read for the first time and referred to the Senate committee on Tourism.....	17-MAR-22
Read for the second time and placed on the calen- dar 1 amendment.....	30-MAR-22
Read for the third time and passed as amended ....	05-APR-22

Patrick Harris,  
Secretary.