

1 HB354
2 138676-3
3 By Representatives McCutcheon, Ball, Hubbard (J), Mask,
4 McClammy, Beech, Warren, Sanderford, Williams (P), Robinson
5 (O), Rogers, Moore (M), Patterson and Williams (D)
6 RFD: Economic Development and Tourism
7 First Read: 16-FEB-12

1 ENGROSSED

2

3

4 A BILL

5 TO BE ENTITLED

6 AN ACT

7

8 To permit persons 21 years of age or older to
9 produce a limited amount of home brewed beer, mead, cider, and
10 table wine for personal use; to prohibit a convicted felon
11 from home brewing such beverages; to provide penalties for
12 violations; and to amend Section 28-3-1, Code of Alabama 1975,
13 relating to definitions of alcoholic beverages, to include
14 definitions of mead and cider; and in connection therewith
15 would have as its purpose or effect the requirement of a new
16 or increased expenditure of local funds within the meaning of
17 Amendment 621 of the Constitution of Alabama of 1901, now
18 appearing as Section 111.05 of the Official Recompilation of
19 the Constitution of Alabama of 1901, as amended.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. (a) Notwithstanding any provisions to the
22 contrary, a person who has not been convicted of a felony in
23 Alabama or any other state or federal jurisdiction, and who is
24 not prohibited by Section 28-1-5, Code of Alabama 1975, from
25 purchasing, consuming, possessing, or transporting alcoholic
26 beverages due to age may produce at his or her legal
27 residence, beer, mead, cider, and table wine, as those terms

1 are defined in Section 28-3-1, Code of Alabama 1975, for
2 personal use, in the amounts specified in this act, without
3 payment of taxes or fees and without obtaining a license. The
4 aggregate amount of the beer, mead, cider, and table wine
5 permitted to be produced under this act, with respect to any
6 legal residence, shall not exceed 15 gallons for each quarter
7 of a calendar year. Further, there shall not be in any legal
8 residence at any one time, more than an aggregate amount of 15
9 gallons of beer, mead, cider, and table wine which has been
10 produced under the authority of this act.

11 (b) Beer, mead, cider, or table wine produced under
12 this act may not be sold or offered for sale.

13 (c) Beer, mead, cider, or table wine produced under
14 this act may not be removed from the legal residence where it
15 was produced, except in quantities no larger than 10 gallons,
16 aggregate, for any one event, and to be transported for
17 personal use at organized events of homebrew competitions and
18 judgings licensed by the Alcoholic Beverage Control Board as a
19 special events retail license under Section 28-3A-20, Code of
20 Alabama 1975, provided that the license will not allow the
21 purchase or sale of any alcoholic beverages when that license
22 is used for this purpose. Organized events involving beer,
23 mead, cider, or table wine produced for personal use may not
24 be held on the premises of entities otherwise licensed under
25 Title 28, Code of Alabama 1975.

26 (d) Nothing in this act permits the production of
27 distilled liquors, for personal use or otherwise, or the use

1 of distilled liquors or products in the production of beer,
2 mead, cider, or table wine provided in this section.

3 (e) It shall be unlawful for any person less than 21
4 years of age to attempt to purchase, consume, possess, or
5 transport beer, mead, cider, or table wine produced for
6 personal use.

7 (f) It shall be unlawful for any person less than 21
8 years of age to attempt to purchase, possess, or transport any
9 apparatus or equipment used to produce beer, mead, cider, or
10 table wine. It shall be unlawful for any person, partnership,
11 corporation, or other legal entity to sell, furnish, give
12 away, or provide to any person less than 21 years of age any
13 apparatus or equipment used to produce beer, mead, cider, or
14 table wine.

15 (g) Nothing in this section permits the production
16 of beer, mead, cider, or table wine in a dry municipality, as
17 defined in Chapter 3 of Title 28, Code of Alabama 1975.
18 Further, with the exception of wet municipalities, as defined
19 in Chapter 3 of Title 28, Code of Alabama 1975, nothing in
20 this section permits the production of beer, mead, cider, or
21 table wine in a dry county as defined in Chapter 3 of Title
22 28, Code of Alabama 1975.

23 (h) The definitions contained in Section 28-3-1 of
24 the Code of Alabama 1975, shall apply to this act.

25 (i) Any violation of this section shall be a Class B
26 misdemeanor.

1 Section 2. Section 28-3-1, Code of Alabama 1975, is
2 amended to read as follows:

3 "§28-3-1.

4 "The following words or phrases, whenever they
5 appear in this chapter, and in Alcoholic Beverage Licensing
6 Code, being Act No. 80-529, Acts of Alabama, 1980, as amended,
7 appearing as Chapter 3A, Title 28, as amended, and the Alabama
8 Table Wine Act, being Act 80-382, Acts of Alabama 1980, as
9 amended, appearing as Chapter 7, Title 28, as amended, unless
10 the context clearly indicates otherwise, shall have the
11 meaning ascribed to them in this section:

12 "(1) ALCOHOLIC BEVERAGES. Any alcoholic, spirituous,
13 vinous, fermented, or other alcoholic beverage, or combination
14 of liquors and mixed liquor, a part of which is spirituous,
15 vinous, fermented, or otherwise alcoholic, and all drinks or
16 drinkable liquids, preparations or mixtures intended for
17 beverage purposes, which contain one-half of one percent or
18 more of alcohol by volume, and shall include liquor, beer, and
19 wine.

20 "(2) ASSOCIATION. A partnership, limited
21 partnership, or any form of unincorporated enterprise owned by
22 two or more persons.

23 "(3) BEER, or MALT OR BREWED BEVERAGES. Except as
24 otherwise provided in this subdivision, any beer, lager beer,
25 ale, porter, malt or brewed beverage, or similar fermented
26 malt liquor containing one-half of one percent or more of
27 alcohol by volume and not in excess of thirteen and

1 nine-tenths percent by volume, by whatever name the same may
2 be called.

3 "(4) BOARD. The Alcoholic Beverage Control Board.

4 "(5) CARTON. The package or container or containers
5 in which alcoholic beverages are originally packaged for
6 shipment to market by the manufacturer or its designated
7 representatives or the importer.

8 "(6) CIDER. A fermented alcoholic beverage made from
9 apple juice and containing not more than 8.5 percent alcohol
10 by volume.

11 "~~(6)~~(7) CONTAINER. The single bottle, can, keg, bag,
12 or other receptacle, not a carton, in which alcoholic
13 beverages are originally packaged for the market by the
14 manufacturer or importer and from which the alcoholic beverage
15 is consumed by or dispensed to the public.

16 "~~(7)~~(8) CLUB.

17 "a. Class I. A corporation or association organized
18 or formed in good faith by authority of law and which must
19 have at least 150 paid-up members. It must be the owner,
20 lessee, or occupant of an establishment operated solely for
21 the objects of a national, social, patriotic, political, or
22 athletic nature or the like, but not for pecuniary gain, and
23 the property as well as the advantages of which, belong to all
24 the members and which maintains an establishment provided with
25 special space and accommodations where, in consideration of
26 payment, food with or without lodging is habitually served.
27 The club shall hold regular meetings, continue its business

1 through officers regularly elected, admit members by written
2 application, investigation, and ballot and charge and collect
3 dues from elected members.

4 "b. Class II. A corporation or association organized
5 or formed in good faith by authority of law and which must
6 have at least 100 paid-up members. It must be the owner,
7 lessee, or occupant of an establishment operated solely for
8 the objects of a national, social, patriotic, political, or
9 athletic nature or the like. The club shall hold regular
10 meetings, continue its business through officers regularly
11 elected, admit members by written application, investigation
12 and ballot and charge and collect dues from elected members.

13 "~~(8)~~ (9) CORPORATION. A corporation or joint stock
14 association organized under the laws of this state, the United
15 States, or any other state, territory or foreign country, or
16 dependency.

17 "~~(9)~~ (10) DRY COUNTY. Any county which by a majority
18 of those voting voted in the negative in an election
19 heretofore held under the applicable statutes at the time of
20 the election or may hereafter vote in the negative in an
21 election or special method referendum hereafter held in
22 accordance with the provisions of Chapter 2 of this title, or
23 held in accordance with the provisions of any act hereafter
24 enacted permitting such election.

25 "~~(10)~~ (11) DRY MUNICIPALITY. Any municipality within
26 a wet county which has, by its governing body or by a majority
27 of those voting in a municipal election heretofore held in

1 accordance with the provisions of Section 28-2-22, or in a
2 municipal option election heretofore or hereafter held in
3 accordance with the provisions of Act 84-408, Acts of Alabama
4 1984, appearing as Chapter 2A of this title, or any act
5 hereafter enacted permitting municipal option election, voted
6 to exclude the sale of alcoholic beverages within the
7 corporate limits of the municipality.

8 ~~"(11)~~ (12) GENERAL WELFARE PURPOSES.

9 "a. The administration of public assistance as set
10 out in Sections 38-2-5 and 38-4-1;

11 "b. Services, including supplementation and
12 supplementary services under the federal Social Security Act,
13 to or on behalf of persons to whom such public assistance may
14 be given under Sections 38-2-5 and 38-4-1;

15 "c. Service to and on behalf of dependent, neglected
16 or delinquent children; and

17 "d. Investigative and referral services to and on
18 behalf of needy persons.

19 ~~"(12)~~ (13) HEARING COMMISSION. A body appointed by
20 the board to hear and decide all contested license
21 applications and all disciplinary charges against any licensee
22 for violation of this title or the regulations of the board.

23 ~~"(13)~~ (14) HOTEL. A building or buildings held out to
24 the public for housing accommodations of travelers or
25 transients, and shall include motel, but shall not include a
26 rooming house or boarding house.

1 "~~(14)~~(15) IMPORTER. Any person, association or
2 corporation engaged in importing alcoholic beverages, liquor,
3 wine, or beer, manufactured outside of the United States of
4 America into this state or for sale or distribution in this
5 state, or to the board or to a licensee of the board.

6 "~~(15)~~(16) LIQUOR. Any alcoholic, spirituous, vinous,
7 fermented, or other alcoholic beverage, or combination of
8 liquors and mixed liquor, a part of which is spirituous,
9 fermented, vinous or otherwise alcoholic, and all drinks or
10 drinkable liquids, preparations or mixtures intended for
11 beverage purposes, which contain one-half of one percent or
12 more of alcohol by volume, except beer and table wine.

13 "~~(16)~~(17) LIQUOR STORE. A liquor store operated by
14 the board, where alcoholic beverages other than beer are
15 authorized to be sold in unopened containers.

16 "~~(17)~~(18) MANUFACTURER. Any person, association, or
17 corporation engaged in the producing, bottling, manufacturing,
18 distilling, rectifying, or compounding of alcoholic beverages,
19 liquor, beer, or wine in this state or for sale or
20 distribution in this state or to the board or to a licensee of
21 the board.

22 "(19) MEAD. An alcoholic beverage produced by
23 fermenting a solution of honey and water with grain mash and
24 containing not more than 18 percent alcohol by volume.

25 "~~(18)~~(20) MINOR. Any person under 21 years of age,
26 except a person 19 years of age or older prior to October 1,
27 1985, is not a minor; provided, however, in the event Section

1 28-1-5, shall be repealed or otherwise shall be no longer in
2 effect, thereafter the provisions of Section 26-1-1, shall
3 govern.

4 "~~(19)~~ (21) MUNICIPALITY. Any incorporated city or
5 town of this state to include its police jurisdiction.

6 "~~(20)~~ (22) PERSON. Every natural person, association,
7 or corporation. Whenever used in a clause prescribing or
8 imposing a fine or imprisonment, or both, such term as applied
9 to association shall mean the partners or members thereof and
10 as applied to corporation shall mean the officers thereof,
11 except as to incorporated clubs the term person shall mean
12 such individual or individuals who, under the bylaws of such
13 clubs, shall have jurisdiction over the possession and sale of
14 liquor therein.

15 "~~(21)~~ (23) POPULATION. The population according to
16 the last preceding or any subsequent decennial census of the
17 United States, except where a municipality is incorporated
18 subsequent to the last census, in which event, its population
19 until the next decennial census shall be the population of the
20 municipality as determined by the judge of probate of the
21 county as the official population on the date of its
22 incorporation.

23 "~~(22)~~ (24) RESTAURANT. A reputable place licensed as
24 a restaurant, operated by a responsible person of good
25 reputation and habitually and principally used for the purpose
26 of preparing and serving meals for the public to consume on
27 the premises.

1 "~~(23)~~(25) MEAL. A diversified selection of food some
2 of which is not susceptible of being consumed in the absence
3 of at least some articles of tableware and which cannot be
4 conveniently consumed while one is standing or walking about.

5 "~~(24)~~(26) RETAILER. Any person licensed by the board
6 to engage in the retail sale of any alcoholic beverages to the
7 consumer.

8 "~~(25)~~(27) SALE or SELL. Any transfer of liquor, wine
9 or beer for a consideration, and any gift in connection with,
10 or as a part of, a transfer of property other than liquor,
11 wine or beer for a consideration.

12 "~~(26)~~(28) SELLING PRICE. The total marked-up price
13 of spirituous or vinous liquors sold by the board, exclusive
14 of taxes levied thereon.

15 "~~(27)~~(29) UNOPENED CONTAINER. A container containing
16 alcoholic beverages, which has not been opened or unsealed
17 subsequent to filling and sealing by the manufacturer or
18 importer.

19 "~~(28)~~(30) WET COUNTY. Any county which by a majority
20 of those voting voted in the affirmative in an election
21 heretofore held in accordance with the statutes applicable at
22 the time of the election or may hereafter vote in the
23 affirmative in an election or special method referendum held
24 in accordance with the provisions of Chapter 2 of this title,
25 or other statutes applicable at the time of the election.

26 "~~(29)~~(31) WET MUNICIPALITY. Any municipality in a
27 dry county which by a majority of those voting voted in the

1 affirmative in a municipal option election heretofore or
2 hereafter held in accordance with the provisions of Act
3 84-408, Acts of Alabama 1984, appearing as Chapter 2A of this
4 title, as amended, or any act hereafter enacted permitting
5 municipal option election, or any municipality which became
6 wet by vote of the governing body or by the voters of the
7 municipality heretofore or hereafter held under the special
8 method referendum provisions of Section 28-2-22, or as
9 hereafter provided, where the county has become dry subsequent
10 to the elected wet status of the municipality.

11 "~~(30)~~(32) WHOLESALER. Any person licensed by the
12 board to engage in the sale and distribution of table wine and
13 beer, or either of them, within this state, at wholesale only,
14 to be sold by export or to retail licensees or other wholesale
15 licensees or others within this state lawfully authorized to
16 sell table wine and beer, or either of them, for the purpose
17 of resale only.

18 "~~(31)~~(33) WINE. All beverages made from the
19 fermentation of fruits, berries, or grapes, with or without
20 added spirits, and produced in accordance with the laws and
21 regulations of the United States, containing not more than 24
22 percent alcohol by volume, and shall include all sparkling
23 wines, carbonated wines, special natural wines, rectified
24 wines, vermouths, vinous beverages, vinous liquors, and like
25 products, including restored or unrestored pure condensed
26 juice.

1 "~~(32)~~(34) TABLE WINE. Except as otherwise provided
2 in this subdivision, any wine containing not more than 24
3 percent alcohol by volume. Table wine does not include any
4 wine containing more than sixteen and one-half percent alcohol
5 by volume that is made with herbs or flavors, except vermouth,
6 or is an imitation or other than standard wine. Table wine is
7 not liquor, spirituous, or vinous.

8 "~~(33)~~(35) BRANDY. All beverages which are an
9 alcoholic distillate from the fermented juice, mash, or wine
10 of fruit, or from the residue thereof, produced in such manner
11 that the distillate possesses the taste, aroma, and
12 characteristics generally attributed to the beverage, as
13 bottled at not less than 80 degree proof."

14 Section 3. Although this bill would have as its
15 purpose or effect the requirement of a new or increased
16 expenditure of local funds, the bill is excluded from further
17 requirements and application under Amendment 621, now
18 appearing as Section 111.05 of the Official Recompilation of
19 the Constitution of Alabama of 1901, as amended, because the
20 bill defines a new crime or amends the definition of an
21 existing crime.

22 Section 4. This act shall become effective
23 immediately following its passage and approval by the
24 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-ferred to the House of Representatives committee on Economic Development and Tourism..... 16-FEB-12

Read for the second time and placed on the calendar with 1 substitute and..... 08-MAR-12

Read for the third time and passed as amended..... 26-MAR-12

Yeas 44, Nays 33, Abstains 0

Greg Pappas
Clerk