

1 HB46
2 172996-1
3 By Representative Boothe
4 RFD: Economic Development and Tourism
5 First Read: 02-FEB-16
6 PFD: 02/01/2016

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, a licensed manufacturer
9 of spirits may not sell its product directly to a
10 consumer for off-premises consumption.

11 This bill would allow a licensed distillery
12 to sell at retail up to 750 milliliters of its
13 product per license year to a customer for
14 off-premises consumption.

15 This bill would require the distillery to
16 keep records of sales for off-premises consumption.

17 This bill would also specify that liquor
18 sold for off-premises consumption must be sealed,
19 labelled, packaged, and taxed in accordance with
20 current regulations.

21
22 A BILL
23 TO BE ENTITLED
24 AN ACT

25
26 Relating to alcoholic beverages; to amend Section
27 28-3A-6 of the Code of Alabama 1975; to allow a licensed

1 distillery to sell at retail up to 750 milliliters of its
2 product per license year to a customer for off-premises
3 consumption; to require the distillery to keep records of
4 sales for off-premises consumption; and to specify that liquor
5 sold for off-premises consumption must be sealed, labelled,
6 packaged, and taxed in accordance with current regulations.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

10 "§28-3A-6.

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

24 "(b) No manufacturer licensee shall sell any
25 alcoholic beverages direct to any retailer or for consumption
26 on the premises where sold except as specified under
27 subsection (h) (1), nor sell or deliver any such alcoholic

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

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

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

24 "(e) Every manufacturer shall keep at its principal
25 place of business within the state, daily permanent records
26 which shall show the quantities of raw materials received and
27 used in the manufacture of alcoholic beverages, and the

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

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

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

24 "(h) (1) A manufacturer licensee actively and
25 continuously engaged in the manufacture of alcoholic beverages
26 on the manufacturer's licensed premises in the ~~State of~~
27 ~~Alabama~~ state may conduct tastings or samplings on the

1 licensed premises, as regulated by the ABC Board except as to
2 quantity and hours of operation, or as otherwise provided by
3 statute, and for that purpose give away or sell alcoholic
4 beverages manufactured there for consumption on only one
5 premises where manufactured.

6 ~~"(2)~~ 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) A manufacturer licensee engaged in the
11 manufacture of liquor on the manufacturer's licensed premises
12 in the state may sell at retail on its licensed premises, for
13 off-premises consumption, liquor manufactured at that licensed
14 premises; provided, however, liquor sold for off-premises
15 consumption may not exceed 750 milliliters per customer per
16 license year and shall be sealed, labelled, packaged, and
17 taxed in accordance with state and federal laws and
18 regulations. The manufacturer licensee shall keep and maintain
19 records for three years of all sales for off-premises
20 consumption.

21 "(i) (1) In addition to the licenses provided for by
22 Chapter 3A of this title, and any county or municipal license,
23 there is levied on the manufacturer of the alcoholic beverages
24 dispensed on the premises the privilege or excise tax imposed
25 on beer by Sections 28-3-184 and 28-3-190; and imposed on
26 table wine by Section 28-7-18; and imposed on liquor by
27 Sections 28-3-200 to 28-3-205, inclusive. Every manufacturer

1 licensee shall file the tax returns, pay the taxes, and
2 perform all obligations imposed on wholesalers at the times
3 and places set forth therein. It shall be unlawful for any
4 manufacturer licensee who is required to pay the taxes so
5 imposed in the first instance to fail or refuse to add to the
6 sale price and collect from the purchaser the required amount
7 of tax, it being the intent and purpose of this provision that
8 each of the taxes levied is in fact a tax on the consumer,
9 with the manufacturer licensee who pays the tax in the first
10 instance acting merely as an agent of the state for the
11 collection and payment of the tax levied by Section 28-3-184;
12 as an agent for the county or municipality for the collection
13 and payment of the tax levied by Section 28-3-190; as an agent
14 for the county or municipality for collection and payment of
15 the tax levied by Section 28-7-18; and as an agent for the
16 state for collection and payment of the tax levied by Sections
17 28-3-200 to 28-3-205, inclusive.

18 "(2) The manufacturer licensee shall keep and
19 maintain all records required to be kept and maintained by
20 manufacturer, wholesaler, and retailer licensees for the tax
21 so levied."

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