

1 SB146  
2 204247-3  
3 By Senator Singleton  
4 RFD: Tourism  
5 First Read: 02-FEB-21

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8 SYNOPSIS: Under existing law, a producer of alcoholic  
9 beverages may only sell its product to distributors  
10 or wholesalers, or directly to consumers in limited  
11 quantities at its licensed premises.

12 This bill would allow a licensed wine  
13 manufacturer to obtain a wine direct shipper permit  
14 from the Alcoholic Beverage Control Board to allow  
15 the permittee to ship limited quantities of table  
16 wine directly to Alabama residents who are at least  
17 21 years of age for their personal use.

18 This bill would impose certain duties on an  
19 Alabama winery that ships wine directly to  
20 consumers, including the collection and remittance  
21 of certain taxes.

22 Also under existing law, common carriers may  
23 only make delivery of alcoholic beverages to the  
24 Alcoholic Beverage Control Board or licensees of  
25 the board.

26 This bill would allow common carriers to  
27 make delivery of alcoholic beverages to residents

1 who are at least 21 years of age, and places  
2 certain requirements on a common carrier making a  
3 delivery of alcoholic beverages.

4 This bill would provide for the permitting  
5 process and establish certain restrictions and  
6 requirements for wine direct shipment permittees.

7 This bill would require common carriers to  
8 report certain information regarding shipments and  
9 deliveries of alcoholic beverages made directly to  
10 consumers to the Alcoholic Beverage Control Board  
11 and the Department of Revenue.

12 This bill would provide that a person who  
13 ships wine directly to a resident without a permit  
14 is guilty of a Class C misdemeanor. This bill would  
15 also provide for revocation of a direct wine  
16 shipper permit or imposition of fines by the  
17 Alcoholic Beverage Control Board for violations of  
18 the terms of that permit.

19 This bill would authorize the Alcoholic  
20 Beverage Control Board to adopt rules.

21 Amendment 621 of the Constitution of Alabama  
22 of 1901, now appearing as Section 111.05 of the  
23 Official Recompilation of the Constitution of  
24 Alabama of 1901, as amended, prohibits a general  
25 law whose purpose or effect would be to require a  
26 new or increased expenditure of local funds from  
27 becoming effective with regard to a local

1 governmental entity without enactment by a 2/3 vote  
2 unless: it comes within one of a number of  
3 specified exceptions; it is approved by the  
4 affected entity; or the Legislature appropriates  
5 funds, or provides a local source of revenue, to  
6 the entity for the purpose.

7 The purpose or effect of this bill would be  
8 to require a new or increased expenditure of local  
9 funds within the meaning of the amendment. However,  
10 the bill does not require approval of a local  
11 governmental entity or enactment by a 2/3 vote to  
12 become effective because it comes within one of the  
13 specified exceptions contained in the amendment.

14  
15 A BILL  
16 TO BE ENTITLED  
17 AN ACT  
18

19 Relating to wine; to amend Section 28-1-4, Code of  
20 Alabama 1975; to add Section 28-3A-6.1 to the Code of Alabama  
21 1975; to authorize common carriers to make delivery of  
22 alcoholic beverages to Alabama residents; to further provide  
23 for restrictions on a common carrier making a delivery of  
24 alcoholic beverages to an Alabama resident; to provide for a  
25 direct wine shipper permit that authorizes a licensed wine  
26 manufacturer or a manufacturer who holds a federal basic wine  
27 manufacturing permit to ship its table wine directly to

1 Alabama residents who are at least 21 years of age for their  
2 personal use; to require these permittees to collect and remit  
3 certain taxes; to provide for criminal penalties for certain  
4 violations, including the direct shipment of wine without a  
5 permit; to authorize the Alcoholic Beverage Control Board to  
6 adopt rules; and in connection therewith could have as its  
7 purpose or effect the requirement of a new or increased  
8 expenditure of local funds within the meaning of Amendment 621  
9 of the Constitution of Alabama of 1901, now appearing as  
10 Section 111.05 of the Official Recompilation of the  
11 Constitution of Alabama of 1901, as amended.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Section 28-1-4, Code of Alabama 1975, is  
14 amended to read as follows:

15 "§28-1-4.

16 ~~"(a) The words and phrases used in this section~~  
17 ~~shall have the meanings ascribed to them in Section 28-3-1 and~~  
18 ~~any acts amendatory thereof, supplementary thereto or~~  
19 ~~substituted therefor.~~

20 ~~"(b) (a) It shall be unlawful for Any common or~~  
21 ~~permit carriers, operators of trucks, buses or other~~  
22 ~~conveyances or out-of-state manufacturers or suppliers to make~~  
23 ~~carrier that ships or makes delivery of any alcoholic beverage~~  
24 ~~from without the State of Alabama to any person, association~~  
25 ~~or corporation within the state, except to the Alabama~~  
26 ~~Alcoholic Beverage Control Board and to manufacturers,~~  
27 ~~importers, wholesalers and warehouses licensed by the Alabama~~

1 ~~Alcoholic Beverage Control Board to receive the alcoholic~~  
2 ~~beverages so delivered~~ within the state is not required to  
3 maintain in the vehicle a bill of lading, consignment, or any  
4 other documentary evidence of the cargo being transported  
5 other than information available on the package shipping  
6 label.

7 "(b) (1) A common carrier that delivers alcoholic  
8 beverages to a resident of the state shall confirm that any  
9 individual physically receiving a shipment of alcoholic  
10 beverages is at least 21 years of age and shall require the  
11 individual's signature before releasing the shipment to that  
12 individual. Any failure by a common carrier, upon receipt of  
13 the shipment, to verify the age of the individual receiving  
14 the alcoholic beverages may result in the suspension of the  
15 common carrier's license to operate in the state or the  
16 imposition of any other penalty the relevant licensing  
17 authority in the state is authorized to impose.

18 "(2) A common carrier that ships or delivers  
19 alcoholic beverages to a resident of the state shall maintain  
20 a copy of the signature of the individual who physically  
21 received the shipment for at least three years following the  
22 date of completion of that shipment or delivery, and, upon  
23 request, shall provide a copy of that signature to the Tax and  
24 Trade Practices Division of the board and the Sales and Use  
25 Tax Division of the Department of Revenue. Failure by a common  
26 carrier to maintain a copy of the signature of the individual  
27 receiving the alcoholic beverages pursuant to this section, or

1 failure to provide a copy of that signature to the board or  
2 the Department of Revenue upon request, may result in the  
3 suspension of the common carrier's license to operate in the  
4 state or the imposition of any other penalty the relevant  
5 licensing authority in the state is authorized to impose.

6 "(c) A common carrier that delivers alcoholic  
7 beverages to a resident of the state shall file quarterly  
8 reports with the Tax and Trade Practices Division of the board  
9 and the Sales and Use Tax Division of the Department of  
10 Revenue of all alcoholic beverage shipments and deliveries  
11 during the reporting period that report all of the following  
12 with regard to each shipment and delivery:

13 "(1) The name and business address of the person who  
14 directed the common carrier to ship wine.

15 "(2) The weight of the shipment.

16 "(3) The name and address of the consumer to whom  
17 the wine was shipped.

18 "(4) A unique tracking number.

19 "(5) The date of delivery.

20 "(d) Reports made under subsection (c) shall be  
21 considered public records for purposes of Article 3,  
22 commencing with Section 36-12-40, of Chapter 12 of Title 36,  
23 and shall be made available to law enforcement officers.

24 "(e) A willful failure by a common carrier to comply  
25 with the reporting requirements in this section which  
26 continues for more than 90 days after receiving notice by the  
27 board or Department of Revenue of the failure may result in

1 the suspension of the common carrier's license to operate in  
2 the state or the imposition of any other penalty the relevant  
3 licensing authority in the state is authorized to impose.

4 ~~"(c) Any violation of subsection (a) of this section~~  
5 ~~shall be a misdemeanor, punishable as provided in paragraph~~  
6 ~~(1) of subsection (b) of Section 28-3A-25.~~

7 ~~"(d) All laws or parts of law which conflict or are~~  
8 ~~inconsistent with this section are hereby repealed, provided,~~  
9 ~~however, the provisions of Section 28-1-3 are excluded."~~

10 Section 2. Section 28-3A-6.1 is added to the Code of  
11 Alabama 1975, to read as follows:

12 §28-3A-6.1. Direct shipment of wine by a  
13 manufacturer.

14 (a) Any person licensed in this state as a wine  
15 manufacturer or who holds a federal basic wine manufacturing  
16 permit may obtain a wine direct shipper permit from the board  
17 as provided in this section, and may ship annually up to 12  
18 cases of wine to any one Alabama resident in a 12-month  
19 period, each case not exceeding nine liters of wine. The wine  
20 shall be shipped directly to a resident of Alabama who is at  
21 least 21 years of age for the resident's personal use and not  
22 for resale.

23 (b) In order to receive a permit to ship wine to an  
24 Alabama resident, the applicant for a wine direct shipper  
25 permit shall do all of the following:

26 (1) File an application with the board.

27 (2) Pay a filing fee of two hundred dollars (\$200).

1           (3) Provide to the board a true copy of its current  
2 manufacturer license issued in this state or its federal basic  
3 wine manufacturing permit.

4           (c) A wine direct shipper permittee:

5           (1) May not ship more wine than is specified in  
6 subsection (a) to any one consumer in a 12-month period.

7           (2) May not ship any wine to any premises licensed  
8 by the board.

9           (3) Shall ensure that all containers of wine shipped  
10 directly to a resident in this state are conspicuously labeled  
11 with the words: "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21  
12 OR OLDER REQUIRED FOR DELIVERY."

13           (4) Shall report to the board the total amount of  
14 wine directly shipped to consumers in the state during the  
15 preceding calendar year, including the amount of wine shipped  
16 to each residential address in the state.

17           (5) Whether located within or outside of this state,  
18 shall collect and properly remit all state and local sales or  
19 use taxes and excise taxes due on sales to Alabama residents.

20           (6) Shall permit the board or the Department of  
21 Revenue to perform an audit of the wine direct shipper  
22 permittee's records upon request.

23           (7) Shall obtain from the customer an attestation  
24 that he or she is at least 21 years of age at the time the  
25 order is placed.

26           (8) Shall be deemed to have consented to the  
27 jurisdiction of the board or any law enforcement agency and

1 the Alabama courts concerning enforcement of this section and  
2 any related laws or administrative rules.

3 (d) A wine direct shipper permittee may renew its  
4 permit with the board by paying annually a renewal fee of one  
5 hundred dollars (\$100) and providing the board a true copy of  
6 its current manufacturer license issued in this state or its  
7 federal basic wine manufacturing permit.

8 (e) The board may adopt rules pursuant to the  
9 Administrative Procedure Act to implement this section.

10 (f) The board may enforce the requirements of this  
11 section to suspend or revoke a wine direct shipper permit by  
12 the same administrative proceedings that apply to alcoholic  
13 beverage licenses, and the board may accept payment of a fine  
14 in lieu of suspension or revocation. Payments of fines shall  
15 be determined by rule adopted by the board.

16 (g) Shipments of wine direct to consumers in Alabama  
17 from persons who do not possess a current wine direct shipper  
18 permit pursuant to this section are prohibited, and any person  
19 who knowingly makes, participates in, or transports such a  
20 shipment is guilty of a Class C misdemeanor.

21 Section 3. Although this bill would have as its  
22 purpose or effect the requirement of a new or increased  
23 expenditure of local funds, the bill is excluded from further  
24 requirements and application under Amendment 621, now  
25 appearing as Section 111.05 of the Official Recompilation of  
26 the Constitution of Alabama of 1901, as amended, because the

1 bill defines a new crime or amends the definition of an  
2 existing crime.

3 Section 4. This act shall become effective on the  
4 first day of the third month following its passage and  
5 approval by the Governor, or its otherwise becoming law.