

1 SB234
2 182639-1
3 By Senator Holtzclaw
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 23-FEB-17

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8 SYNOPSIS: Under existing law, licensed manufacturers
9 of alcohol may conduct tastings, samplings, and
10 retail sales on its licensed premises. Existing law
11 also requires reporting on the sale of alcohol from
12 and to licensed manufacturers.

13 This bill would clarify that for reporting
14 purposes, the internal transfer of alcoholic
15 beverages on a manufacturer's licensed premises for
16 the purpose of tasting, sampling, or retail sales
17 shall be deemed a sale and the manufacturer
18 licensee shall be deemed the wholesale and retail
19 purchaser.

20
21 A BILL
22 TO BE ENTITLED
23 AN ACT

24
25 Relating to alcoholic beverages; to amend Sections
26 28-3A-6 and 28-4A-4, Code of Alabama 1975, to clarify that
27 internal transfers of alcoholic beverages on a manufacturer's

1 licensed premises for the purpose of tasting, sampling, or
2 retail sales shall be deemed a sale and the manufacturer
3 licensee shall be deemed the wholesale and retail purchaser
4 for purposes of reporting requirements.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Sections 28-3A-6 and 28-4A-4, Code of
7 Alabama 1975, are amended to read as follows:

8 "§28-3A-6.

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

22 "(b) No manufacturer licensee shall sell any
23 alcoholic beverages direct to any retailer or for consumption
24 on the premises where sold except as specified under
25 subsection (h), nor sell or deliver any such alcoholic
26 beverages in other than original containers approved as to
27 capacity by the board and in accordance with standards of fill

1 prescribed by the U. S. Treasury Department, nor maintain or
2 operate within the state any place or places, other than the
3 place or places covered by the manufacturer license, where
4 alcoholic beverages are sold or where orders are taken.

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

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

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

1 beverages stored for hire or transported for hire by or for
2 the licensee and the names and addresses of the purchasers or
3 other recipients thereof.

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

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

22 "(h) (1) A manufacturer licensee actively and
23 continuously engaged in the manufacture of alcoholic beverages
24 on the manufacturer's licensed premises in the state may
25 conduct tastings or samplings on the licensed premises, as
26 regulated by the ABC Board except as to quantity and hours of
27 operation, or as otherwise provided by statute, and for that

1 purpose give away or sell alcoholic beverages manufactured
2 there for consumption on only one premises where manufactured.

3 "All alcoholic beverages manufactured and retained
4 on the manufacturer's licensed premises for tasting or
5 sampling shall remain on the premises and be dispensed from a
6 barrel or keg or other original containers.

7 "(2) Notwithstanding subdivision (1), a manufacturer
8 licensee engaged in the manufacture of less than 60,000
9 barrels of beer per year may sell at retail on its licensed
10 premises in the state, for off-premises consumption, beer
11 produced at that licensed premises; provided, however, beer
12 sold for off-premises consumption: May not exceed 288 ounces
13 per customer per day; may not be produced pursuant to a
14 contract with another manufacturer; and shall be sealed,
15 labeled, packaged, and taxed in accordance with state and
16 federal laws and regulations. For purposes of this
17 subdivision, beer produced by a parent, subsidiary, or
18 affiliate of the licensee, or by a contract brewery,
19 regardless of where the beer is produced, shall be included
20 for purposes of calculating the 60,000 barrel limit.

21 "(3) A manufacturer licensee engaged in the
22 manufacture of liquor on the manufacturer's licensed premises
23 in the state may sell at retail on its licensed premises, for
24 off-premises consumption, liquor manufactured at that licensed
25 premises; provided, however, liquor sold for off-premises
26 consumption may not exceed 750 milliliters per customer per
27 day and shall be sealed, labeled, packaged, and taxed in

1 accordance with state and federal laws and regulations. The
2 manufacturer licensee shall keep and maintain records for
3 three years of all sales for off-premises consumption.

4 "(4) Notwithstanding subdivision (1), the board may
5 grant a permit allowing a manufacturer licensee engaged in the
6 manufacture of less than 50,000 gallons of table wine per year
7 in the state to establish and operate one additional off-site
8 tasting room to be used to conduct tastings or samplings and
9 to sell at retail the licensee's table wine. The board may
10 also grant a single permit allowing an association
11 representing the majority of wineries and grape growers in the
12 state to establish and operate one off-site tasting room to be
13 used to conduct tastings and samplings and to sell at retail
14 table wines produced by wine manufacturer licensees in the
15 state. An applicant for an off-site tasting room permit shall
16 file a written application with the board in such form and
17 containing such information as the board may prescribe, along
18 with proof of consent and approval from the appropriate
19 governing authority in which the off-site tasting room is to
20 be located and a filing fee of fifty dollars (\$50). All state
21 and federal laws and regulations applicable to on-site tasting
22 rooms shall apply to an off-site tasting room. Wine sold at an
23 off-site tasting room for off-premises consumption may not
24 exceed one case of wine per customer per day. For purposes of
25 this subdivision, one case of wine means the equivalent of
26 twelve 750-milliliter bottles of wine.

1 "(i) (1) In addition to the licenses provided for by
2 Chapter 3A of this title, and any county or municipal license,
3 there is levied on the manufacturer of the alcoholic beverages
4 dispensed on the premises the privilege or excise tax imposed
5 on beer by Sections 28-3-184 and 28-3-190; and imposed on
6 table wine by Section 28-7-18; and imposed on liquor by
7 Sections 28-3-200 to 28-3-205, inclusive. Every manufacturer
8 licensee shall file the tax returns, pay the taxes, and
9 perform all obligations imposed on wholesalers at the times
10 and places set forth therein. It shall be unlawful for any
11 manufacturer licensee who is required to pay the taxes so
12 imposed in the first instance to fail or refuse to add to the
13 sale price and collect from the purchaser the required amount
14 of tax, it being the intent and purpose of this provision that
15 each of the taxes levied is in fact a tax on the consumer,
16 with the manufacturer licensee who pays the tax in the first
17 instance acting merely as an agent of the state for the
18 collection and payment of the tax levied by Section 28-3-184;
19 as an agent for the county or municipality for the collection
20 and payment of the tax levied by Section 28-3-190; as an agent
21 for the county or municipality for collection and payment of
22 the tax levied by Section 28-7-18; and as an agent for the
23 state for collection and payment of the tax levied by Sections
24 28-3-200 to 28-3-205, inclusive.

25 "(2) The manufacturer licensee shall keep and
26 maintain all records required to be kept and maintained by

1 manufacturer, wholesaler, and retailer licensees for the tax
2 so levied.

3 "(3) The internal transfer of alcoholic beverages
4 for tasting, sampling, or retail sales on the manufacturer's
5 licensed premises shall be deemed a sale, and the manufacturer
6 shall be deemed the wholesale and retail purchaser and
7 recipient for purposes of reporting.

8 "(j) A manufacturer licensee engaged in the
9 manufacture of beer in the state may donate and deliver up to
10 two kegs of the manufacturer's beer to a licensed charitable
11 special event operated by or on behalf of a nonprofit
12 organization. Donations shall be taxed in accordance with
13 state and federal laws and regulations. Any beer remaining at
14 the conclusion of the charitable event shall be returned to
15 the manufacturer for disposal.

16 "(k) A manufacturer licensee engaged in the
17 manufacture of table wine in the state may donate and deliver
18 up to two cases of the manufacturer's table wine to a licensed
19 charitable special event operated by or on behalf of a
20 nonprofit organization. Donations shall be taxed in accordance
21 with state and federal laws and regulations. Any table wine
22 remaining at the conclusion of the charitable event shall be
23 returned to the manufacturer for disposal.

24 "§28-4A-4.

25 "(a) In addition to the licenses provided for by
26 this chapter and any county or municipal license, there is
27 levied on the brewpub for on-premises sales of beer brewed by

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

16 "(b) The brewpub shall be required to keep and
17 maintain all of the records otherwise required to be kept and
18 maintained by manufacturer, wholesaler, and retailer
19 licensees.

20 "(c) The brewpub shall appoint a licensed wholesaler
21 designee in order to preserve Section 28-9-1. In addition, for
22 on-premises sales of beer brewed by the brewpub licensee, the
23 brewpub shall be exempt from Sections 28-9-3 through 28-9-11.

24 "(d) The internal transfer of beer for tasting,
25 sampling, or retail sales on the brewpub's licensed premises
26 shall be deemed a sale and the licensed brewpub shall be

1 deemed the wholesale and retail purchaser and recipient for
2 purposes of reporting."

3 Section 2. 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.