

1 SB234  
2 183271-4  
3 By Senator Holtzclaw  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 23-FEB-17

1 SB234

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4 ENROLLED, An Act,

5 Relating to alcoholic beverages; to amend Sections  
6 28-3A-6 and 28-4A-3, Code of Alababma 1975, to clarify that  
7 manufacturers and brewpubs are not required to maintain name,  
8 address, or other personal demographic information for certain  
9 sales.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

13 "§28-3A-6.

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

1 the person shall be granted a manufacturer license issued by  
2 the board.

3 "(b) No manufacturer licensee shall sell any  
4 alcoholic beverages direct to any retailer or for consumption  
5 on the premises where sold except as specified under  
6 subsection (h), nor sell or deliver any such alcoholic  
7 beverages in other than original containers approved as to  
8 capacity by the board and in accordance with standards of fill  
9 prescribed by the U. S. Treasury Department, nor maintain or  
10 operate within the state any place or places, other than the  
11 place or places covered by the manufacturer license, where  
12 alcoholic beverages are sold or where orders are taken.

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

24 "(d) All such manufacturer licensees shall be  
25 required to mail to the board prior to the twentieth day of

1 each month a consolidated report of all shipments of alcoholic  
2 beverages made to each wholesaler during the preceding month.  
3 Such reports shall be in such form and containing such  
4 information as the board may prescribe.

5 "(e) Every manufacturer shall keep at its principal  
6 place of business within the state, daily permanent records  
7 which shall show the quantities of raw materials received and  
8 used in the manufacture of alcoholic beverages, and the  
9 quantities of alcoholic beverages manufactured and stored, the  
10 sale of alcoholic beverages, the quantities of alcoholic  
11 beverages stored for hire or transported for hire by or for  
12 the licensee and the names and addresses of the purchasers or  
13 other recipients thereof.

14 "(f) Every place licensed as a manufacturer shall be  
15 subject to inspection by members of the board or by persons  
16 duly authorized and designated by the board at any and all  
17 times of the day or night as they may deem necessary, for the  
18 detection of violations of this chapter, of any law, or of the  
19 rules and regulations of the board, or for the purpose of  
20 ascertaining the correctness of the records required to be  
21 kept by the licensees. The books and records of such licensees  
22 shall, at all times, be open to inspection by members of the  
23 board, or by persons duly authorized and designated by the  
24 board. Members of the board and its duly authorized agents  
25 shall have the right, without hindrance, to enter any place

1 which is subject to inspection hereunder, or any place where  
2 such records are kept for the purpose of making such  
3 inspections and making transcripts thereof.

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

7 "(h) (1) A manufacturer licensee actively and  
8 continuously engaged in the manufacture of alcoholic beverages  
9 on the manufacturer's licensed premises in the state may  
10 conduct tastings or samplings on the licensed premises, as  
11 regulated by the ABC Board except as to quantity and hours of  
12 operation, or as otherwise provided by statute, and for that  
13 purpose give away or sell alcoholic beverages manufactured  
14 there for consumption on only one premises where manufactured.

15 "All alcoholic beverages manufactured and retained  
16 on the manufacturer's licensed premises for tasting or  
17 sampling shall remain on the premises and be dispensed from a  
18 barrel or keg or other original containers.

19 "(2) Notwithstanding subdivision (1), a manufacturer  
20 licensee engaged in the manufacture of less than 60,000  
21 barrels of beer per year may sell at retail on its licensed  
22 premises in the state, for off-premises consumption, beer  
23 produced at that licensed premises; provided, however, beer  
24 sold for off-premises consumption: May not exceed 288 ounces  
25 per customer per day; may not be produced pursuant to a

1 contract with another manufacturer; and shall be sealed,  
2 labeled, packaged, and taxed in accordance with state and  
3 federal laws and regulations. For purposes of this  
4 subdivision, beer produced by a parent, subsidiary, or  
5 affiliate of the licensee, or by a contract brewery,  
6 regardless of where the beer is produced, shall be included  
7 for purposes of calculating the 60,000 barrel limit.

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

18 "(4) Notwithstanding subdivision (1), the board may  
19 grant a permit allowing a manufacturer licensee engaged in the  
20 manufacture of less than 50,000 gallons of table wine per year  
21 in the state to establish and operate one additional off-site  
22 tasting room to be used to conduct tastings or samplings and  
23 to sell at retail the licensee's table wine. The board may  
24 also grant a single permit allowing an association  
25 representing the majority of wineries and grape growers in the

1 state to establish and operate one off-site tasting room to be  
2 used to conduct tastings and samplings and to sell at retail  
3 table wines produced by wine manufacturer licensees in the  
4 state. An applicant for an off-site tasting room permit shall  
5 file a written application with the board in such form and  
6 containing such information as the board may prescribe, along  
7 with proof of consent and approval from the appropriate  
8 governing authority in which the off-site tasting room is to  
9 be located and a filing fee of fifty dollars (\$50). All state  
10 and federal laws and regulations applicable to on-site tasting  
11 rooms shall apply to an off-site tasting room. Wine sold at an  
12 off-site tasting room for off-premises consumption may not  
13 exceed one case of wine per customer per day. For purposes of  
14 this subdivision, one case of wine means the equivalent of  
15 twelve 750-milliliter bottles of wine.

16 "(i) (1) In addition to the licenses provided for by  
17 Chapter 3A of this title, and any county or municipal license,  
18 there is levied on the manufacturer of the alcoholic beverages  
19 dispensed on the premises the privilege or excise tax imposed  
20 on beer by Sections 28-3-184 and 28-3-190; and imposed on  
21 table wine by Section 28-7-18; and imposed on liquor by  
22 Sections 28-3-200 to 28-3-205, inclusive. Every manufacturer  
23 licensee shall file the tax returns, pay the taxes, and  
24 perform all obligations imposed on wholesalers at the times  
25 and places set forth therein. It shall be unlawful for any

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

15 "(2) The manufacturer licensee shall keep and  
16 maintain all records required to be kept and maintained by  
17 manufacturer, wholesaler, and retailer licensees for the tax  
18 so levied except that manufacturers are not required to  
19 maintain name, address, or other personal demographic  
20 information for sales as provided in 28-3A-6(h).

21 "(j) A manufacturer licensee engaged in the  
22 manufacture of beer in the state may donate and deliver up to  
23 two kegs of the manufacturer's beer to a licensed charitable  
24 special event operated by or on behalf of a nonprofit  
25 organization. Donations shall be taxed in accordance with



1 state and federal laws and regulations. Any beer remaining at  
2 the conclusion of the charitable event shall be returned to  
3 the manufacturer for disposal.

4 "(k) A manufacturer licensee engaged in the  
5 manufacture of table wine in the state may donate and deliver  
6 up to two cases of the manufacturer's table wine to a licensed  
7 charitable special event operated by or on behalf of a  
8 nonprofit organization. Donations shall be taxed in accordance  
9 with state and federal laws and regulations. Any table wine  
10 remaining at the conclusion of the charitable event shall be  
11 returned to the manufacturer for disposal.

12 "§28-4A-3.

13 "(a) In addition to the licenses authorized to be  
14 issued and renewed by the board pursuant to the Alcoholic  
15 Beverage Licensing Code codified as Chapter 3A of this title,  
16 the board, upon applicant's compliance with the provisions of  
17 this chapter and with Chapter 3A and the regulations made  
18 thereunder, is authorized to issue to a qualified applicant a  
19 brewpub license which shall authorize the licensee to  
20 manufacture or brew beer, in a quantity not to exceed 10,000  
21 barrels in any one year and to sell beer brewed on the  
22 licensed premises in unpackaged form at retail for on-premises  
23 consumption at the licensed premises only; to sell beer brewed  
24 on the licensed premises in packaged form at retail for  
25 off-premises consumption, provided the beer sold for

1 off-premises consumption may not exceed 288 ounces per  
2 customer per day and shall be sealed, labeled, packaged, and  
3 taxed in accordance with state and federal laws and  
4 regulations; to sell beer brewed on the premises in original,  
5 unopened barrel or keg containers to any licensed wholesaler  
6 designated by a brewpub licensee pursuant to Sections 28-8-2  
7 and 28-9-3 for resale to retail licensees; to donate and  
8 deliver up to two kegs of the licensee's beer to a licensed  
9 charitable special event operated by or on behalf of a  
10 nonprofit organization; provided, however, donations shall be  
11 taxed in accordance with state and federal laws and  
12 regulations, and any beer remaining at the conclusion of the  
13 charitable event shall be returned to the manufacturer for  
14 disposal; and to purchase beer, including draft or keg beer,  
15 in original, unopened containers from licensed wholesalers and  
16 to sell such beer at retail for on-premises consumption only,  
17 in a room or rooms or place on the licensed premises at all  
18 times accessible to the use and accommodation of the general  
19 public, subject to the following conditions:

20           "(1) The proposed location of the premises shall  
21 not, at the time of the original application, be prohibited by  
22 a valid zoning ordinance or other ordinance in the valid  
23 exercise of police power by the governing body of the  
24 municipality or county in which the brewpub is located.

1           "(2) Beer brewed by the brewpub licensee shall be  
2 packaged or contained in barrels from which the beer is to be  
3 dispensed only on the premises where brewed for consumption on  
4 the premises or sold in original, unopened barrel or keg  
5 containers to any designated wholesaler licensee for resale to  
6 retailer licensees.

7           "(3) The brewpub must contain and operate a  
8 restaurant or otherwise provide food for consumption on the  
9 premises.

10           "(4) The brewpub may not sell any alcoholic  
11 beverages if it is not actively and continuously engaged in  
12 the manufacture or brewing of alcoholic beverages on the  
13 brewpub's licensed premises.

14           "(b) The annual license fee levied and prescribed  
15 for a license as a brewpub issued or renewed by the board  
16 pursuant to the authority of this chapter is \$1,000.

17           "(c) Except as provided in this subsection, the  
18 provisions of this title shall be applicable. The provisions  
19 of Section 28-3-4 and subsection (b) of Section 28-3A-6, shall  
20 not be applicable with regard to beer brewed by the brewpub  
21 and sold and dispensed on the brewpub premises. In all other  
22 respects, Section 28-3-4, ~~and~~ Section 28-3A-6(b), and  
23 28-3A-6(i)(2) shall be applicable."

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

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB234

Senate 15-MAR-17

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,  
Secretary.

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House of Representatives  
Passed: 19-MAY-17

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By: Senator Holtzclaw