

1 SB259
2 218274-5
3 By Senator Smitherman
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 23-FEB-22

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 Relating to brewpubs; to amend Section 28-4A-3, Code
12 of Alabama 1975, as last amended by Act 2021-454 of the 2021
13 Regular Session; to provide further for the annual barrel
14 production limit that allows a beer manufacturer to have a
15 financial interest in a brewpub and for operation of that
16 brewpub.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Section 28-4A-3, Code of Alabama 1975, as
19 last amended by Act 2021-454 of the 2021 Regular Session, is
20 amended to read as follows:

21 "§28-4A-3.

22 "(a) In addition to the licenses authorized to be
23 issued and renewed by the board pursuant to ~~the Alcoholic~~
24 ~~Beverage Licensing Code codified as Chapter 3A of this title,~~
25 the board, upon applicant's compliance with this chapter,
26 Chapter 3A, and the rules adopted thereunder, and the
27 conditions set forth in subsection (b), may issue to a

1 qualified applicant a brewpub license which shall authorize
2 the licensee to do all of the following:

3 "(1) Manufacture or brew beer, in a quantity not to
4 exceed 10,000 barrels in any one year, and to sell beer brewed
5 on the licensed premises in unpackaged form at retail for
6 on-premises consumption at the licensed premises only.

7 "(2) Sell beer brewed on the licensed premises in
8 packaged form at retail for off-premises consumption, provided
9 the beer sold for off-premises consumption may not exceed 864
10 ounces per customer per day and shall be sealed, labeled,
11 packaged, and taxed in accordance with state and federal laws
12 and regulations.

13 "(3) Sell beer brewed on the premises in original,
14 unopened barrel or keg containers to any licensed wholesaler
15 designated by a brewpub licensee pursuant to Sections 28-8-2
16 and 28-9-3 for resale to retail licensees.

17 "(4) Donate and deliver up to 31 gallons of the
18 licensee's beer to a licensed charitable special event
19 operated by or on behalf of a nonprofit organization;
20 provided, however, donations shall be taxed in accordance with
21 state and federal laws and regulations, and any beer remaining
22 at the conclusion of the charitable event shall be returned to
23 the brewpub for disposal.

24 "(5) Purchase beer, including draft or keg beer, in
25 original, unopened containers from licensed wholesalers and to
26 sell such beer at retail for on-premises consumption only, in

1 a room or rooms or place on the licensed premises at all times
2 accessible to the use and accommodation of the general public.

3 "(b) A brewpub is subject to all of the following
4 conditions:

5 "(1) The proposed location of the premises shall
6 not, at the time of the original application, be prohibited by
7 a valid zoning ordinance or other ordinance in the valid
8 exercise of police power by the governing body of the
9 municipality or county in which the brewpub is located.

10 "(2) Beer brewed by the brewpub licensee shall be
11 packaged or contained in barrels from which the beer is to be
12 dispensed only on the premises where brewed for consumption on
13 the premises or sold in original, unopened barrel or keg
14 containers to any designated wholesaler licensee for resale to
15 retailer licensees.

16 "(3) The brewpub must contain and operate a
17 restaurant or otherwise provide food for consumption on the
18 premises.

19 "(4) The brewpub may not sell any alcoholic
20 beverages if it is not actively and continuously engaged in
21 the manufacture or brewing of alcoholic beverages on the
22 brewpub's licensed premises.

23 "(c) The annual license fee levied and prescribed
24 for a license as a brewpub issued or renewed by the board is
25 one thousand dollars (\$1,000).

26 "(d) (1) ~~A manufacturer that sells, on an annual~~
27 ~~basis, an amount equal to no more than 60,000 barrels of beer,~~

1 may have a financial interest in a brewpub, including a
2 brewpub that also has a restaurant retail license, provided
3 the manufacturer may not transfer alcoholic beverages directly
4 from the manufacturer to the brewpub, but may purchase
5 alcoholic beverages from an authorized wholesaler or as
6 otherwise provided by law, and may not have a financial
7 interest in any retailer other than a brewpub.

8 "(2) A manufacturer that produces on an annual basis
9 more than 60,000 barrels of beer may have a financial interest
10 in one brewpub located in a Class 1 municipality; provided,
11 however, for such a brewpub, the quantity restriction under
12 subdivision (a) (2) for sale of beer for off-premises
13 consumption shall be reduced to 64 ounces per customer per
14 day. For purposes of calculation, the 60,000 barrel limit
15 shall include all beer produced by the manufacturer, all beer
16 produced by a parent, subsidiary, or affiliate of the
17 manufacturer, and all beer produced exclusively for the
18 manufacturer.

19 "(e) Section 28-3-4 and subsection (b) of Section
20 28-3A-6 shall not be applicable with regard to beer brewed by
21 either of the following and sold and dispensed on the brewpub
22 premises:

23 "(1) The brewpub.

24 "(2) A manufacturer described in, and in compliance
25 with, subsection (d)."

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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Senate

Read for the first time and referred to the Senate
committee on Fiscal Responsibility and Economic
Development..... 23-FEB-22

Read for the second time and placed on the
calendar with 1 substitute and..... 09-MAR-22

Read for the third time and passed as amended 17-MAR-22

Yeas 22
Nays 0
Abstaining 2

Patrick Harris,
Secretary.