

1 SB329
2 181165-1
3 By Senators Holtzclaw, Livingston, Albritton, Brewbaker,
4 Pittman, Singleton, Smitherman, Figures, Coleman-Madison, Ward
5 and Whatley
6 RFD: Fiscal Responsibility and Economic Development
7 First Read: 16-MAR-17

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8 SYNOPSIS: Currently, there is no specific license of
9 the Alcoholic Beverage Control Board relating to
10 direct shipping of limited quantities of wine to
11 Alabama residents for their personal use.

12 This bill would allow a currently licensed
13 wine producer, supplier, importer, wholesaler,
14 distributor, or retailer to obtain a wine direct
15 shipper license from the Alcoholic Beverage Control
16 Board to allow the licensee to ship limited
17 quantities of wine directly to Alabama residents
18 for their personal use, under certain
19 circumstances.

20 A violation of the requirements of this bill
21 would constitute a Class C misdemeanor.

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

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

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

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT
19

20 To provide for a wine direct shipper license; to
21 allow the licensee to ship a limited amount of wine directly
22 to an Alabama resident who is 21 years of age or older for
23 personal use only; to provide the licensing procedure; to
24 provide restrictions and requirements on the direct shipment
25 of wine; to provide for issuance and renewal fees for the wine
26 direct shipper license; to provide that an unlicensed direct
27 shipment of wine constitutes a Class C misdemeanor; and in

1 connection therewith would have as its purpose or effect the
2 requirement of a new or increased expenditure of local funds
3 within the meaning of Amendment 621 of the Constitution of
4 Alabama of 1901, now appearing as Section 111.05 of the
5 Official Recompilation of the Constitution of Alabama of 1901,
6 as amended.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. (a) Any person currently licensed in this
9 or any other state as a wine producer, supplier, importer,
10 wholesaler, distributor, or retailer who obtains a wine direct
11 shipper license, as provided in this section, may ship
12 annually up to 24 cases of wine, each case not exceeding nine
13 liters of wine, directly to a resident of Alabama who is at
14 least 21 years of age for such resident's personal use and not
15 for resale.

16 (b) Before sending any shipment to an Alabama
17 resident, the wine direct shipper licensee must first:

18 (1) File an application with the Alcoholic Beverage
19 Control Board.

20 (2) Pay a one hundred dollar (\$100) registration
21 fee.

22 (3) Provide to the board a true copy of its current
23 alcoholic beverage license issued in this or any other state.

24 (4) Obtain from the board a wine direct shipper
25 license.

26 (c) A wine direct shipper licensee:

1 (1) May not ship more wine than is specified in
2 subsection (a).

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

7 (3) If located outside of this state, shall report
8 to the board annually the total amount of wine shipped into
9 the state the preceding calendar year.

10 (4) If located outside of this state, shall annually
11 pay to the Department of Revenue all sales taxes and excise
12 taxes due on sales to Alabama residents in the preceding
13 calendar year, the amount of such taxes to be calculated as if
14 the sale were made in Alabama.

15 (5) If located within this state, shall provide the
16 Department of Revenue any additional information deemed
17 necessary beyond that already required for retail sales from
18 the winery tasting room to ensure compliance with this
19 section.

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

23 (7) Shall be deemed to have consented to the
24 jurisdiction of the board or any other state law enforcement
25 agency and the Alabama courts concerning enforcement of this
26 section and any related laws or administrative rules.

1 (d) A wine direct shipper licensee may renew its
2 license with the board by paying a fifty dollar (\$50) renewal
3 fee annually and providing the board a true copy of its
4 current alcoholic beverage license issued in this or any other
5 state.

6 (e) The board and the Department of Revenue may
7 jointly promulgate rules pursuant to the Alabama
8 Administrative Procedure Act to implement this section.

9 (f) The board may enforce the requirements of this
10 section by administrative proceedings to suspend or revoke a
11 wine direct shipper license, and the board may accept payment
12 of an offer in compromise in lieu of suspension, such payments
13 to be determined by rule promulgated by the board.

14 (g) Shipments of wine direct to consumers in Alabama
15 from persons who do not possess a current wine direct shipper
16 license from the board are prohibited and any person who
17 knowingly makes, participates in, transports, imports, or
18 receives such a shipment is guilty of a Class C misdemeanor.

19 Section 2. Although this bill would have as its
20 purpose or effect the requirement of a new or increased
21 expenditure of local funds, the bill is excluded from further
22 requirements and application under Amendment 621, now
23 appearing as Section 111.05 of the Official Recompilation of
24 the Constitution of Alabama of 1901, as amended, because the
25 bill defines a new crime or amends the definition of an
26 existing crime.

1 Section 3. 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.