

1 SB192
2 124076-2
3 By Senators Holtzclaw, Marsh, Whatley, Singleton, Smitherman
4 and Sanford
5 RFD: Small Business
6 First Read: 09-MAR-11

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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 To amend Sections 28-4A-2, 28-4A-3, 28-4A-4, and
12 28-4A-6, Code of Alabama 1975, the Alabama Brewpub Act, to
13 remove certain limitations on brewpub operation and to allow
14 brewpub licensees to sell beer brewed on-premises to a
15 licensed wholesaler for distribution to retail licensees.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 28-4A-2, 28-4A-3, 28-4A-4, and
18 28-4A-6, Code of Alabama 1975, are amended to read as follows:

19 "§28-4A-2.

20 "(a) The words and phrases used in this chapter
21 shall have the meanings ascribed to them in Section 28-3-1,
22 and any acts amendatory thereof, supplementary thereto or
23 substituted therefor.

24 "(b) The following words or phrases, whenever they
25 appear in this chapter, unless the context clearly indicates
26 otherwise, shall have the meaning ascribed to them in this
27 subsection:

1 "(1) BREWPUB. Any premises upon which beer is
2 manufactured or brewed, subject to ~~the barrel production~~
3 ~~limitation~~ the provisions prescribed in this chapter, ~~for~~
4 ~~consumption exclusively on the premises.~~

5 "(2) PREMISES. Any building, structure or portion
6 thereof ~~designated as a historic building and site as defined~~
7 ~~in Section 40-8-1,~~ in which is located the operations of a
8 brewpub.

9 "§28-4A-3.

10 "(a) In addition to the licenses authorized to be
11 issued and renewed by the board pursuant to the Alcoholic
12 Beverage Licensing Code codified as Chapter 3A, Title 28, the
13 board, upon applicant's compliance with the provisions of this
14 chapter and with Chapter 3A, Title 28, and the regulations
15 made thereunder, is authorized to issue to a qualified
16 applicant a brewpub license which shall authorize the licensee
17 to manufacture or brew beer, ~~in a quantity not to exceed~~
18 ~~10,000 barrels in any one year and to sell such beer in~~
19 ~~unpackaged form at retail for on-premises consumption only, to~~
20 sell beer brewed on-premises to a licensed wholesaler for
21 distribution to retail licensees, and to purchase beer in
22 original unopened containers from licensed wholesalers and to
23 sell such beer at retail for on-premises consumption only, in
24 a room or rooms or place on the licensed premises at all times
25 accessible to the use and accommodation of the general public,
26 subject to the following conditions:

1 "(1) The brewpub premises must be located ~~in an~~
2 ~~historic building or site as defined in Section 40-8-1,~~ in a
3 wet county or wet municipality, ~~in which county beer was~~
4 ~~brewed for public consumption prior to the ratification of the~~
5 ~~Eighteenth Amendment to the U.S. Constitution in 1919.~~

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

11 "(3) ~~Beer brewed by the~~ A brewpub licensee ~~shall not~~
12 ~~be possessed, sold or dispensed except on the premises where~~
13 ~~brewed, and shall not be packaged or contained in other than~~
14 ~~barrels from which the beer is to be dispensed on the premises~~
15 ~~for consumption on the premises~~ may offer tours of its
16 facility to the general public and may provide free samples,
17 not to exceed six ounces, to be consumed on-premises as a way
18 to promote its products.

19 "(4) The brewpub ~~must~~ may contain and operate a
20 restaurant ~~with a seating capacity of not less than 80.~~

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

24 "(c) Except as provided in this subsection, the
25 provisions of Title 28 shall be applicable. The provisions of
26 Section 28-3-4 and subsection (b) of Section 28-3A-6, shall
27 not be applicable with regard to beer brewed by the brewpub

1 and sold and dispensed on the brewpub premises. In all other
2 respects, Section 28-3-4 and Section 28-3A-6(b) shall be
3 applicable.

4 "§28-4A-4.

5 "(a) In addition to the licenses provided for by
6 this chapter and any county or municipal license, for any
7 on-premises retail sales of beer brewed by the brewpub
8 licensee and any free samples provided by the brewpub
9 licensee, there is levied on the brewpub the privilege or
10 excise taxes imposed by Sections 28-3-184 and 28-3-190. ~~Every~~
11 For any on-premises retail sales of beer brewed by the brewpub
12 licensee and any free samples provided by the brewpub
13 licensee, the brewpub licensee shall file the tax returns, pay
14 the taxes and perform all obligations imposed on wholesalers
15 at the times and places set forth therein. It shall be
16 unlawful for any brewpub licensee who is required to pay the
17 taxes so imposed in the first instance to fail or refuse to
18 add to the sales price and collect from the purchaser the
19 required amount of tax, it being the intent and purpose of
20 this provision that each of the taxes levied is in fact a tax
21 on the consumer, with the brewpub licensee who pays the tax in
22 the first instance acting merely as an agent of the state for
23 the collection and payment of the tax levied by Section
24 28-3-184 and as an agent of the county or municipality for the
25 collection and payment of the tax levied by Section 28-3-190.

26 "(b) The brewpub shall be required to keep and
27 maintain all of the records otherwise required to be kept and

1 maintained by manufacturer, wholesaler, and retailer
2 licensees.

3 "(c) The brewpub shall appoint a licensed wholesaler
4 designee in order to preserve Section 28-9-1. In addition, for
5 the on-premises sales of beer brewed by the brewpub licensee,
6 the brewpub shall be exempt from Sections 28-9-3 through
7 28-9-11.

8 "§28-4A-6.

9 "The Legislature finds that it is in the best
10 interest of the public welfare of the State of Alabama to
11 ~~preserve and redevelop the original "downtown" municipal areas~~
12 ~~of this state and to further promote the preservation and~~
13 ~~redevelopment of historic buildings and sites~~ promote local
14 industry in the state. The Legislature finds that an effective
15 way of facilitating ~~the urban redevelopment program and the~~
16 ~~preservation of historic buildings and sites~~ small brewery
17 businesses is by creating a single exception to the existing
18 alcoholic beverage laws to authorize and permit the
19 establishment of brewpubs ~~located in historic buildings and~~
20 ~~sites in urban redevelopment areas of those municipalities~~
21 ~~located within counties where the brewing of beer for~~
22 ~~consumption by the public had historically been located.~~ The
23 policy and intent of the Legislature in the enactment of this
24 chapter is to promote the public welfare by further regulating
25 and controlling alcoholic beverage transactions in Alabama
26 under the control and supervision of the Alabama Alcoholic

1 Beverage Control Board to accomplish this legislative purpose
2 set forth herein."

3 Section 2. This act shall become effective
4 immediately following its passage and approval by the
5 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Small Business..... 09-MAR-11

Read for the second time and placed on the calen-
dar 1 amendment..... 24-MAR-11

Read for the third time and passed as amended 05-APR-11

Yeas 24
Nays 5

Patrick Harris
Secretary