

1 SB192  
2 124076-1  
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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8 SYNOPSIS: Under existing law, alcoholic beverage  
9 manufacturers located in Alabama that produce beer  
10 are not permitted to sell any alcoholic beverages  
11 on-premises. The only exception is a special class  
12 of beer manufacturers called brewpubs, permitted  
13 under the Alabama Brewpub Act, which may sell beer  
14 brewed on-premises to consumers for on-premises  
15 consumption only.

16 This bill would remove certain limitations  
17 on brewpub operation and allow brewpub licensees to  
18 sell beer brewed on-premises to a licensed  
19 wholesaler for distribution to retail licensees.

20  
21 A BILL  
22 TO BE ENTITLED  
23 AN ACT  
24

25 To amend Sections 28-4A-2, 28-4A-3, 28-4A-4, and  
26 28-4A-6, Code of Alabama 1975, the Alabama Brewpub Act, to  
27 remove certain limitations on brewpub operation and to allow

1 brewpub licensees to sell beer brewed on-premises to a  
2 licensed wholesaler for distribution to retail licensees.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 28-4A-2, 28-4A-3, 28-4A-4, and  
5 28-4A-6, Code of Alabama 1975, are amended to read as follows:

6 "§28-4A-2.

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

11 "(b) The following words or phrases, whenever they  
12 appear in this chapter, unless the context clearly indicates  
13 otherwise, shall have the meaning ascribed to them in this  
14 subsection:

15 "(1) BREWPUB. Any premises upon which beer is  
16 manufactured or brewed, ~~subject to the barrel production~~  
17 ~~limitation prescribed in this chapter, for consumption~~  
18 ~~exclusively on the premises~~ including a wholly owned affiliate  
19 or subsidiary of a manufacturer licensed under the laws of the  
20 State of Alabama.

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

25 "§28-4A-3.

26 "(a) In addition to the licenses authorized to be  
27 issued and renewed by the board pursuant to the Alcoholic

1 Beverage Licensing Code codified as Chapter 3A, Title 28, the  
2 board, upon applicant's compliance with the provisions of this  
3 chapter and with Chapter 3A, Title 28, and the regulations  
4 made thereunder, is authorized to issue to a qualified  
5 applicant a brewpub license which shall authorize the licensee  
6 to manufacture or brew beer, ~~in a quantity not to exceed~~  
7 ~~10,000 barrels in any one year and to sell such beer in~~  
8 ~~unpackaged form at retail for on-premises consumption only, to~~  
9 sell beer brewed on-premises to a licensed wholesaler for  
10 distribution to retail licensees, and to purchase beer in  
11 original unopened containers from licensed wholesalers and to  
12 sell such beer at retail for on-premises consumption only, in  
13 a room or rooms or place on the licensed premises at all times  
14 accessible to the use and accommodation of the general public,  
15 subject to the following conditions:

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

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

26 "(3) ~~Beer brewed by the~~ A brewpub licensee ~~shall not~~  
27 ~~be possessed, sold or dispensed except on the premises where~~

1 brewed, and shall not be packaged or contained in other than  
2 barrels from which the beer is to be dispensed on the premises  
3 for consumption on the premises may offer tours of its  
4 facility to the general public and may provide free samples,  
5 not to exceed six ounces, to be consumed on-premises as a way  
6 to promote its products.

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

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

12 "(c) Except as provided in this subsection, the  
13 provisions of Title 28 shall be applicable. The provisions of  
14 Section 28-3-4 and subsection (b) of Section 28-3A-6, shall  
15 not be applicable with regard to beer brewed by the brewpub  
16 and sold and dispensed on the brewpub premises. In all other  
17 respects, Section 28-3-4 and Section 28-3A-6(b) shall be  
18 applicable.

19 "§28-4A-4.

20 "(a) In addition to the licenses provided for by  
21 this chapter and any county or municipal license, for any  
22 on-premises retail sales of beer brewed by the brewpub  
23 licensee and any free samples provided by the brewpub  
24 licensee, there is levied on the brewpub the privilege or  
25 excise taxes imposed by Sections 28-3-184 and 28-3-190. ~~Every~~  
26 For any on-premises retail sales of beer brewed by the brewpub  
27 licensee and any free samples provided by the brewpub

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

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

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

23 "§28-4A-6.

24 "The Legislature finds that it is in the best  
25 interest of the public welfare of the State of Alabama to  
26 ~~preserve and redevelop the original "downtown" municipal areas~~  
27 ~~of this state and to further promote the preservation and~~

1 ~~redevelopment of historic buildings and sites~~ promote local  
2 industry in the state. The Legislature finds that an effective  
3 way of facilitating ~~the urban redevelopment program and the~~  
4 ~~preservation of historic buildings and sites~~ small brewery  
5 businesses is by creating a single exception to the existing  
6 alcoholic beverage laws to authorize and permit the  
7 establishment of brewpubs ~~located in historic buildings and~~  
8 ~~sites in urban redevelopment areas of those municipalities~~  
9 ~~located within counties where the brewing of beer for~~  
10 ~~consumption by the public had historically been located.~~ The  
11 policy and intent of the Legislature in the enactment of this  
12 chapter is to promote the public welfare by further regulating  
13 and controlling alcoholic beverage transactions in Alabama  
14 under the control and supervision of the Alabama Alcoholic  
15 Beverage Control Board to accomplish this legislative purpose  
16 set forth herein."

17           Section 2. This act shall become effective  
18 immediately following its passage and approval by the  
19 Governor, or its otherwise becoming law.