

1 HB530
2 148917-4
3 By Representatives Mask, Ball and Hubbard (J)
4 RFD: Economic Development and Tourism
5 First Read: 02-APR-13

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8 SYNOPSIS: Under existing law, a special class of beer
9 manufacturers called brewpubs, permitted under the
10 Alabama Brewpub Act, may sell beer brewed
11 on-premises to consumers for on-premises
12 consumption only.

13 This bill would create an additional license
14 for the sale of beer and other alcoholic beverages
15 brewed on premises.

16 This bill would allow the sale of the beer
17 and other alcoholic beverages for off-premises
18 consumption.

19 This bill would establish the terms and
20 conditions of the sale of the beer and other
21 alcoholic beverages.

22 This bill would levy an additional license
23 fee on each license issued by the Alcoholic
24 Beverage Control Board.

25
26 A BILL
27 TO BE ENTITLED

1 AN ACT

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3 To amend Sections 28-3A-6, 28-4A-3, Code of Alabama
4 1975, relating to brewpub license; to create an additional
5 license for the sale of beer brewed on premises; to allow the
6 sale of the beer and certain other alcoholic beverages brewed
7 on premises for off-premises consumption; to establish the
8 terms and conditions of the sale of the beer or other
9 alcoholic beverages; and to levy an additional license fee on
10 each license issued by the Alcoholic Beverage Control Board.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

14 "§28-3A-6.

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

1 "(b) No manufacturer licensee shall sell any
2 alcoholic beverages direct to any retailer or for consumption
3 on the premises where sold except as specified under
4 subsection (h) (1), nor sell or deliver any such alcoholic
5 beverages in other than original containers approved as to
6 capacity by the board and in accordance with standards of fill
7 prescribed by the U. S. Treasury Department, nor maintain or
8 operate within the state any place or places, other than the
9 place or places covered by the manufacturer license, where
10 alcoholic beverages are sold or where orders are taken.

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

22 "(d) All such manufacturer licensees shall be
23 required to mail to the board prior to the twentieth day of
24 each month a consolidated report of all shipments of alcoholic
25 beverages made to each wholesaler during the preceding month.
26 Such reports shall be in such form and containing such
27 information as the board may prescribe.

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

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

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

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

10 "(2) All alcoholic beverages manufactured and
11 retained on the manufacturer's licensed premises for tasting
12 or sampling shall remain on the premises and be dispensed from
13 a barrel or keg or other original containers.

14 "(i) (1) In addition to the licenses provided for by
15 Chapter 3A of this title, and any county or municipal license,
16 there is levied on the manufacturer of the alcoholic beverages
17 dispensed on the premises the privilege or excise tax imposed
18 on beer by Sections 28-3-184 and 28-3-190; and imposed on
19 table wine by Section 28-7-18; and imposed on liquor by
20 Sections 28-3-200 to 28-3-205, inclusive. Every manufacturer
21 licensee shall file the tax returns, pay the taxes, and
22 perform all obligations imposed on wholesalers at the times
23 and places set forth therein. It shall be unlawful for any
24 manufacturer licensee who is required to pay the taxes so
25 imposed in the first instance to fail or refuse to add to the
26 sale price and collect from the purchaser the required amount
27 of tax, it being the intent and purpose of this provision that

1 each of the taxes levied is in fact a tax on the consumer,
2 with the manufacturer licensee who pays the tax in the first
3 instance acting merely as an agent of the state for the
4 collection and payment of the tax levied by Section 28-3-184;
5 as an agent for the county or municipality for the collection
6 and payment of the tax levied by Section 28-3-190; as an agent
7 for the county or municipality for collection and payment of
8 the tax levied by Section 28-7-18; and as an agent for the
9 state for collection and payment of the tax levied by Sections
10 28-3-200 to 28-3-205, inclusive.

11 "(2) The manufacturer licensee shall keep and
12 maintain all records required to be kept and maintained by
13 manufacturer, wholesaler, and retailer licensees for the tax
14 so levied.

15 "(j) (1) In addition to the licenses authorized to be
16 issued and renewed by the board pursuant to the Alcoholic
17 Beverage Licensing Code codified as Chapter 3A of this title,
18 and subsection (a), the board, upon the compliance of the
19 applicant with this chapter and with Chapter 3A and the
20 regulations made under that chapter, may issue to a qualified
21 applicant an additional license which shall allow the licensee
22 to sell alcoholic beverages manufactured by the licensee in
23 Alabama directly at retail for off-premises consumption at the
24 licensed premises only, except that alcoholic beverages sold
25 for off-premises consumption may not exceed 25,000 barrels
26 annually.

1 "(2) The annual license fee levied and prescribed
2 for the license issued pursuant to this subsection shall be
3 one thousand dollars (\$1,000).

4 "(3) Each licensee shall be responsible for payment
5 of all applicable state and local taxes.

6 "\$28-4A-3.

7 "(a) In addition to the licenses authorized to be
8 issued and renewed by the board pursuant to the Alcoholic
9 Beverage Licensing Code codified as Chapter 3A of this title,
10 the board, upon applicant's compliance with the provisions of
11 this chapter and with Chapter 3A and the regulations made
12 thereunder, is authorized to issue to a qualified applicant a
13 brewpub license which shall authorize the licensee to
14 manufacture or brew beer, in a quantity not to exceed 10,000
15 barrels in any one year and to sell beer brewed on the
16 licensed premises in unpackaged form at retail for on-premises
17 consumption at the licensed premises only, to sell beer brewed
18 on the premises in original, unopened barrel or keg containers
19 to any licensed wholesaler designated by a brewpub licensee
20 pursuant to Sections 28-8-2 and 28-9-3 for resale to retail
21 licensees, and to purchase beer, including draft or keg beer,
22 in original, unopened containers from licensed wholesalers and
23 to sell such beer at retail for on-premises consumption only,
24 in a room or rooms or place on the licensed premises at all
25 times accessible to the use and accommodation of the general
26 public, 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, or in
3 a registered historic district, or in any economically
4 distressed area designated as suitable by the municipal or
5 county governing body, in a wet county or wet municipality, in
6 which county beer was brewed for public consumption prior to
7 the ratification of the Eighteenth Amendment to the U.S.
8 Constitution in 1919.

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

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

20 "(4) The brewpub must contain and operate a
21 restaurant or otherwise provide food for consumption on the
22 premises.

23 "(5) The brewpub may not sell any alcoholic
24 beverages if it is not actively and continuously engaged in
25 the manufacture or brewing of alcoholic beverages on the
26 brewpub's licensed premises.

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

4 "(c) Except as provided in this subsection, the
5 provisions of this title shall be applicable. The provisions
6 of Section 28-3-4 and subsection (b) of Section 28-3A-6, shall
7 not be applicable with regard to beer brewed by the brewpub
8 and sold and dispensed on the brewpub premises. In all other
9 respects, Section 28-3-4 and Section 28-3A-6(b) shall be
10 applicable.

11 "(d) (1) In addition to the licenses authorized to be
12 issued and renewed by the board pursuant to the Alcoholic
13 Beverage Licensing Code codified as Chapter 3A of this title,
14 and subsection (a), the board, upon the compliance of the
15 applicant with this chapter and with Chapter 3A and the
16 regulations made under that chapter, may issue to a qualified
17 applicant an additional license which shall allow the licensee
18 to sell beer manufactured by the licensee in Alabama directly
19 at retail in unpackaged form at retail for off-premises
20 consumption at the licensed premises only, except that beer
21 sold for off-premises consumption may not exceed 25,000
22 barrels annually.

23 "(2) The annual license fee levied and prescribed
24 for the license issued pursuant to this subsection shall be
25 one thousand dollars (\$1,000).

26 "(3) Each licensee shall be responsible for payment
27 of all applicable state and local taxes."

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.