

1 SB171
2 147548-1
3 By Senators Holtzclaw, Fielding, Pittman, Brewbaker,
4 Singleton, Keahey and Smitherman
5 RFD: Job Creation and Economic Development
6 First Read: 07-FEB-13

2
3
4
5
6
7
8 SYNOPSIS: This bill would allow adult persons to
9 produce homebrewed beer, mead, cider, and wine in
10 limited amounts for personal use; would prohibit a
11 person convicted of a felony from homebrewing; and
12 would provide for a Class C misdemeanor punishment
13 for violations of this act.

14 Amendment 621 of the Constitution of Alabama
15 of 1901, now appearing as Section 111.05 of the
16 Official Recompilation of the Constitution of
17 Alabama of 1901, as amended, prohibits a general
18 law whose purpose or effect would be to require a
19 new or increased expenditure of local funds from
20 becoming effective with regard to a local
21 governmental entity without enactment by a 2/3 vote
22 unless: it comes within one of a number of
23 specified exceptions; it is approved by the
24 affected entity; or the Legislature appropriates
25 funds, or provides a local source of revenue, to
26 the entity for the purpose.

1 The purpose or effect of this bill would be
2 to require a new or increased expenditure of local
3 funds within the meaning of the amendment. However,
4 the bill does not require approval of a local
5 governmental entity or enactment by a 2/3 vote to
6 become effective because it comes within one of the
7 specified exceptions contained in the amendment.

8
9 A BILL
10 TO BE ENTITLED
11 AN ACT

12
13 To permit persons 21 years of age or older to
14 produce a limited amount of home brewed beer, mead, cider, and
15 table wine for personal use; to prohibit a convicted felon
16 from home brewing such beverages; to provide penalties for
17 violations; and to amend Section 28-3-1, Code of Alabama 1975,
18 relating to definitions of alcoholic beverages, to include
19 definitions of mead and cider; and in connection therewith
20 would have as its purpose or effect the requirement of a new
21 or increased expenditure of local funds within the meaning of
22 Amendment 621 of the Constitution of Alabama of 1901, now
23 appearing as Section 111.05 of the Official Recompilation of
24 the Constitution of Alabama of 1901, as amended.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. (a) Notwithstanding any provisions to the
27 contrary, a person who has not been convicted of a felony in

1 Alabama or any other state or federal jurisdiction, and who is
2 not prohibited by Section 28-1-5, Code of Alabama 1975, from
3 purchasing, consuming, possessing, or transporting alcoholic
4 beverages due to age may produce at his or her legal
5 residence, beer, mead, cider, and table wine, as those terms
6 are defined in Section 28-3-1, Code of Alabama 1975, for
7 personal use, in the amounts specified in this act, without
8 payment of taxes or fees and without obtaining a license. The
9 aggregate amount of the beer, mead, cider, and table wine
10 permitted to be produced under this act, with respect to any
11 legal residence, shall not exceed 15 gallons for each quarter
12 of a calendar year. Further, there shall not be in any legal
13 residence at any one time, more than an aggregate amount of 15
14 gallons of beer, mead, cider, and table wine which has been
15 produced under the authority of this act.

16 (b) Beer, mead, cider, or table wine produced under
17 this act may not be sold or offered for sale.

18 (c) Beer, mead, cider, or table wine produced under
19 this act may not be removed from the legal residence where it
20 was produced, except in quantities no larger than 10 gallons,
21 aggregate, for any one event, and to be transported for
22 personal use at organized events of homebrew competitions and
23 judgments licensed by the Alcoholic Beverage Control Board as a
24 special events retail license under Section 28-3A-20, Code of
25 Alabama 1975, provided that the license will not allow the
26 purchase or sale of any alcoholic beverages when that license
27 is used for this purpose. Organized events involving beer,

1 mead, cider, or table wine produced for personal use may not
2 be held on the premises of entities otherwise licensed under
3 Title 28, Code of Alabama 1975.

4 (d) Noting in this act permits the production of
5 distilled liquors, for personal use or otherwise, or the use
6 of distilled liquors or products in the production of beer,
7 mead, cider, or table wine provided in this section.

8 (e) It shall be unlawful for any person less than 21
9 years of age to attempt to purchase, consume, possess, or
10 transport beer, mead, cider, or table wine produced for
11 personal use.

12 (f) It shall be unlawful for any person less than 21
13 years of age to attempt to purchase, possess, or transport any
14 apparatus or equipment used to produce beer, mead, cider, or
15 table wine. It shall be unlawful for any person, partnership,
16 corporation, or other legal entity to sell, furnish, give
17 away, or provide to any person less than 21 years of age any
18 apparatus or equipment used to produce beer, mead, cider, or
19 table wine.

20 (g) Nothing in this section permits the production
21 of beer, mead, cider, or table wine in a dry municipality, as
22 defined in Chapter 3 of Title 28, Code of Alabama 1975.
23 Further, with the exception of wet municipalities, as defined
24 in Chapter 3 of Title 28, Code of Alabama 1975, nothing in
25 this section permits the production of beer, mead, cider, or
26 table wine in a dry county as defined in Chapter 3 of Title
27 28, Code of Alabama 1975.

1 (h) The definitions contained in Section 28-3-1 of
2 the Code of Alabama 1975, shall apply to this act.

3 (i) Any violation of this section shall be a Class B
4 misdemeanor.

5 Section 2. Section 28-3-1, Code of Alabama 1975, is
6 amended to read as follows:

7 "§28-3-1.

8 "The following words or phrases, whenever they
9 appear in this chapter, and in Alcoholic Beverage Licensing
10 Code, being Act No. 80-529, Acts of Alabama, 1980, as amended,
11 appearing as Chapter 3A, Title 28, as amended, and the Alabama
12 Table Wine Act, being Act 80-382, Acts of Alabama 1980, as
13 amended, appearing as Chapter 7, Title 28, as amended, unless
14 the context clearly indicates otherwise, shall have the
15 meaning ascribed to them in this section:

16 "(1) ALCOHOLIC BEVERAGES. Any alcoholic, spirituous,
17 vinous, fermented, or other alcoholic beverage, or combination
18 of liquors and mixed liquor, a part of which is spirituous,
19 vinous, fermented, or otherwise alcoholic, and all drinks or
20 drinkable liquids, preparations or mixtures intended for
21 beverage purposes, which contain one-half of one percent or
22 more of alcohol by volume, and shall include liquor, beer, and
23 wine.

24 "(2) ASSOCIATION. A partnership, limited
25 partnership, or any form of unincorporated enterprise owned by
26 two or more persons.

1 "(3) BEER, or MALT OR BREWED BEVERAGES. Except as
2 otherwise provided in this subdivision, any beer, lager beer,
3 ale, porter, malt or brewed beverage, or similar fermented
4 malt liquor containing one-half of one percent or more of
5 alcohol by volume and not in excess of thirteen and
6 nine-tenths percent by volume, by whatever name the same may
7 be called.

8 "(4) BOARD. The Alcoholic Beverage Control Board.

9 "(5) CARTON. The package or container or containers
10 in which alcoholic beverages are originally packaged for
11 shipment to market by the manufacturer or its designated
12 representatives or the importer.

13 "(6) CIDER. A fermented alcoholic beverage made from
14 apple juice and containing not more than 8.5 percent alcohol
15 by volume.

16 "~~(6)~~(7) CONTAINER. The single bottle, can, keg, bag,
17 or other receptacle, not a carton, in which alcoholic
18 beverages are originally packaged for the market by the
19 manufacturer or importer and from which the alcoholic beverage
20 is consumed by or dispensed to the public.

21 "~~(7)~~(8) CLUB.

22 "a. Class I. A corporation or association organized
23 or formed in good faith by authority of law and which must
24 have at least 150 paid-up members. It must be the owner,
25 lessee, or occupant of an establishment operated solely for
26 the objects of a national, social, patriotic, political, or
27 athletic nature or the like, but not for pecuniary gain, and

1 the property as well as the advantages of which, belong to all
2 the members and which maintains an establishment provided with
3 special space and accommodations where, in consideration of
4 payment, food with or without lodging is habitually served.
5 The club shall hold regular meetings, continue its business
6 through officers regularly elected, admit members by written
7 application, investigation, and ballot and charge and collect
8 dues from elected members.

9 "b. Class II. A corporation or association organized
10 or formed in good faith by authority of law and which must
11 have at least 100 paid-up members. It must be the owner,
12 lessee, or occupant of an establishment operated solely for
13 the objects of a national, social, patriotic, political, or
14 athletic nature or the like. The club shall hold regular
15 meetings, continue its business through officers regularly
16 elected, admit members by written application, investigation
17 and ballot and charge and collect dues from elected members.

18 "~~(8)~~ (9) CORPORATION. A corporation or joint stock
19 association organized under the laws of this state, the United
20 States, or any other state, territory or foreign country, or
21 dependency.

22 "~~(9)~~ (10) DRY COUNTY. Any county which by a majority
23 of those voting voted in the negative in an election
24 heretofore held under the applicable statutes at the time of
25 the election or may hereafter vote in the negative in an
26 election or special method referendum hereafter held in
27 accordance with the provisions of Chapter 2 of this title, or

1 held in accordance with the provisions of any act hereafter
2 enacted permitting such election.

3 "~~(10)~~ (11) DRY MUNICIPALITY. Any municipality within
4 a wet county which has, by its governing body or by a majority
5 of those voting in a municipal election heretofore held in
6 accordance with the provisions of Section 28-2-22, or in a
7 municipal option election heretofore or hereafter held in
8 accordance with the provisions of Act 84-408, Acts of Alabama
9 1984, appearing as Chapter 2A of this title, or any act
10 hereafter enacted permitting municipal option election, voted
11 to exclude the sale of alcoholic beverages within the
12 corporate limits of the municipality.

13 "~~(11)~~ (12) GENERAL WELFARE PURPOSES.

14 "a. The administration of public assistance as set
15 out in Sections 38-2-5 and 38-4-1;

16 "b. Services, including supplementation and
17 supplementary services under the federal Social Security Act,
18 to or on behalf of persons to whom such public assistance may
19 be given under Sections 38-2-5 and 38-4-1;

20 "c. Service to and on behalf of dependent, neglected
21 or delinquent children; and

22 "d. Investigative and referral services to and on
23 behalf of needy persons.

24 "~~(12)~~ (13) HEARING COMMISSION. A body appointed by
25 the board to hear and decide all contested license
26 applications and all disciplinary charges against any licensee
27 for violation of this title or the regulations of the board.

1 "~~(13)~~(14) HOTEL. A building or buildings held out to
2 the public for housing accommodations of travelers or
3 transients, and shall include motel, but shall not include a
4 rooming house or boarding house.

5 "~~(14)~~(15) IMPORTER. Any person, association or
6 corporation engaged in importing alcoholic beverages, liquor,
7 wine, or beer, manufactured outside of the United States of
8 America into this state or for sale or distribution in this
9 state, or to the board or to a licensee of the board.

10 "~~(15)~~(16) LIQUOR. Any alcoholic, spirituous, vinous,
11 fermented, or other alcoholic beverage, or combination of
12 liquors and mixed liquor, a part of which is spirituous,
13 fermented, vinous or otherwise alcoholic, and all drinks or
14 drinkable liquids, preparations or mixtures intended for
15 beverage purposes, which contain one-half of one percent or
16 more of alcohol by volume, except beer and table wine.

17 "~~(16)~~(17) LIQUOR STORE. A liquor store operated by
18 the board, where alcoholic beverages other than beer are
19 authorized to be sold in unopened containers.

20 "~~(17)~~(18) MANUFACTURER. Any person, association, or
21 corporation engaged in the producing, bottling, manufacturing,
22 distilling, rectifying, or compounding of alcoholic beverages,
23 liquor, beer, or wine in this state or for sale or
24 distribution in this state or to the board or to a licensee of
25 the board.

1 "(19) MEAD. An alcoholic beverage produced by
2 fermenting a solution of honey and water with grain mash and
3 containing not more than 18 percent alcohol by volume.

4 "~~(18)~~(20) MINOR. Any person under 21 years of age,
5 except a person 19 years of age or older prior to October 1,
6 1985, is not a minor; provided, however, in the event Section
7 28-1-5, shall be repealed or otherwise shall be no longer in
8 effect, thereafter the provisions of Section 26-1-1, shall
9 govern.

10 "~~(19)~~(21) MUNICIPALITY. Any incorporated city or
11 town of this state to include its police jurisdiction.

12 "~~(20)~~(22) PERSON. Every natural person, association,
13 or corporation. Whenever used in a clause prescribing or
14 imposing a fine or imprisonment, or both, such term as applied
15 to association shall mean the partners or members thereof and
16 as applied to corporation shall mean the officers thereof,
17 except as to incorporated clubs the term person shall mean
18 such individual or individuals who, under the bylaws of such
19 clubs, shall have jurisdiction over the possession and sale of
20 liquor therein.

21 "~~(21)~~(23) POPULATION. The population according to
22 the last preceding or any subsequent decennial census of the
23 United States, except where a municipality is incorporated
24 subsequent to the last census, in which event, its population
25 until the next decennial census shall be the population of the
26 municipality as determined by the judge of probate of the

1 county as the official population on the date of its
2 incorporation.

3 ~~"(22)~~ (24) RESTAURANT. A reputable place licensed as
4 a restaurant, operated by a responsible person of good
5 reputation and habitually and principally used for the purpose
6 of preparing and serving meals for the public to consume on
7 the premises.

8 ~~"(23)~~ (25) MEAL. A diversified selection of food some
9 of which is not susceptible of being consumed in the absence
10 of at least some articles of tableware and which cannot be
11 conveniently consumed while one is standing or walking about.

12 ~~"(24)~~ (26) RETAILER. Any person licensed by the board
13 to engage in the retail sale of any alcoholic beverages to the
14 consumer.

15 ~~"(25)~~ (27) SALE or SELL. Any transfer of liquor, wine
16 or beer for a consideration, and any gift in connection with,
17 or as a part of, a transfer of property other than liquor,
18 wine or beer for a consideration.

19 ~~"(26)~~ (28) SELLING PRICE. The total marked-up price
20 of spirituous or vinous liquors sold by the board, exclusive
21 of taxes levied thereon.

22 ~~"(27)~~ (29) UNOPENED CONTAINER. A container containing
23 alcoholic beverages, which has not been opened or unsealed
24 subsequent to filling and sealing by the manufacturer or
25 importer.

26 ~~"(28)~~ (30) WET COUNTY. Any county which by a majority
27 of those voting voted in the affirmative in an election

1 heretofore held in accordance with the statutes applicable at
2 the time of the election or may hereafter vote in the
3 affirmative in an election or special method referendum held
4 in accordance with the provisions of Chapter 2 of this title,
5 or other statutes applicable at the time of the election.

6 "~~(29)~~(31) WET MUNICIPALITY. Any municipality in a
7 dry county which by a majority of those voting voted in the
8 affirmative in a municipal option election heretofore or
9 hereafter held in accordance with the provisions of Act
10 84-408, Acts of Alabama 1984, appearing as Chapter 2A of this
11 title, as amended, or any act hereafter enacted permitting
12 municipal option election, or any municipality which became
13 wet by vote of the governing body or by the voters of the
14 municipality heretofore or hereafter held under the special
15 method referendum provisions of Section 28-2-22, or as
16 hereafter provided, where the county has become dry subsequent
17 to the elected wet status of the municipality.

18 "~~(30)~~(32) WHOLESALER. Any person licensed by the
19 board to engage in the sale and distribution of table wine and
20 beer, or either of them, within this state, at wholesale only,
21 to be sold by export or to retail licensees or other wholesale
22 licensees or others within this state lawfully authorized to
23 sell table wine and beer, or either of them, for the purpose
24 of resale only.

25 "~~(31)~~(33) WINE. All beverages made from the
26 fermentation of fruits, berries, or grapes, with or without
27 added spirits, and produced in accordance with the laws and

1 regulations of the United States, containing not more than 24
2 percent alcohol by volume, and shall include all sparkling
3 wines, carbonated wines, special natural wines, rectified
4 wines, vermouths, vinous beverages, vinous liquors, and like
5 products, including restored or unrestored pure condensed
6 juice.

7 "~~(32)~~(34) TABLE WINE. Except as otherwise provided
8 in this subdivision, any wine containing not more than 24
9 percent alcohol by volume. Table wine does not include any
10 wine containing more than sixteen and one-half percent alcohol
11 by volume that is made with herbs or flavors, except vermouth,
12 or is an imitation or other than standard wine. Table wine is
13 not liquor, spirituous, or vinous.

14 "~~(33)~~(35) BRANDY. All beverages which are an
15 alcoholic distillate from the fermented juice, mash, or wine
16 of fruit, or from the residue thereof, produced in such manner
17 that the distillate possesses the taste, aroma, and
18 characteristics generally attributed to the beverage, as
19 bottled at not less than 80 degree proof."

20 Section 3. Although this bill would have as its
21 purpose or effect the requirement of a new or increased
22 expenditure of local funds, the bill is excluded from further
23 requirements and application under Amendment 621, now
24 appearing as Section 111.05 of the Official Recompilation of
25 the Constitution of Alabama of 1901, as amended, because the
26 bill defines a new crime or amends the definition of an
27 existing crime.

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