

2  
3 SENATE FR&ED COMMITTEE SUBSTITUTE FOR SB329  
4

5  
6  
7  
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 This bill would also authorize small package  
23 delivery carriers to deliver wine to residents and  
24 alcoholic beverages to the Alcoholic Beverage  
25 Control Board and certain licensees without

1 carrying a bill of lading, consignment, or other  
2 document other than a package shipping label.

3 Amendment 621 of the Constitution of Alabama  
4 of 1901, now appearing as Section 111.05 of the  
5 Official Recompilation of the Constitution of  
6 Alabama of 1901, as amended, prohibits a general  
7 law whose purpose or effect would be to require a  
8 new or increased expenditure of local funds from  
9 becoming effective with regard to a local  
10 governmental entity without enactment by a 2/3 vote  
11 unless: it comes within one of a number of  
12 specified exceptions; it is approved by the  
13 affected entity; or the Legislature appropriates  
14 funds, or provides a local source of revenue, to  
15 the entity for the purpose.

16 The purpose or effect of this bill would be  
17 to require a new or increased expenditure of local  
18 funds within the meaning of the amendment. However,  
19 the bill does not require approval of a local  
20 governmental entity or enactment by a 2/3 vote to  
21 become effective because it comes within one of the  
22 specified exceptions contained in the amendment.

23  
24 A BILL  
25 TO BE ENTITLED  
26 AN ACT

1  
2           To provide for a wine direct shipper license; to  
3 amend Section 28-1-4, Code of Alabama 1975; to allow the  
4 licensee to ship a limited amount of wine directly to an  
5 Alabama resident who is 21 years of age or older for personal  
6 use only; to provide the licensing procedure; to provide  
7 restrictions and requirements on the direct shipment of wine;  
8 to provide for issuance and renewal fees for the wine direct  
9 shipper license; to provide that an unlicensed direct shipment  
10 of wine constitutes a Class C misdemeanor; to authorize small  
11 package delivery carriers to deliver wine to residents and  
12 alcoholic beverages to the Alcoholic Beverage Control Board  
13 and certain licensees without carrying a bill of lading,  
14 consignment, or other document other than a package shipping  
15 label; and in connection therewith would have as its purpose  
16 or effect the requirement of a new or increased expenditure of  
17 local funds within the meaning of Amendment 621 of the  
18 Constitution of Alabama of 1901, now appearing as Section  
19 111.05 of the Official Recompilation of the Constitution of  
20 Alabama of 1901, as amended.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22           Section 1. Section 28-1-4, Code of Alabama 1975, is  
23 amended to read as follows:

24           "§28-1-4.

25           "(a) The words and phrases used in this section  
26 shall have the meanings ascribed to them in Section 28-3-1 and

1 any acts amendatory thereof, supplementary thereto or  
2 substituted therefor.

3 "(b) It shall be unlawful for common or permit  
4 carriers, operators of trucks, buses or other conveyances or  
5 out-of-state manufacturers or suppliers to make delivery of  
6 any alcoholic beverage from without the State of Alabama to  
7 any person, association or corporation within the state,  
8 except to the Alabama Alcoholic Beverage Control Board and to  
9 manufacturers, importers, wholesalers and warehouses licensed  
10 by the Alabama Alcoholic Beverage Control Board to receive the  
11 alcoholic beverages so delivered; provided, however, wine may  
12 be shipped to a resident who is at least 21 years of age in  
13 the state at the direction of a wine direct shipper licensee  
14 in accordance with Section 2 of the act adding this amendatory  
15 language.

16 "(c) Notwithstanding subsection (b), small package  
17 delivery carriers may transport and deliver shipments of wine  
18 to a resident at the direction of a wine direct shipper  
19 license and may transport and deliver alcoholic beverages to  
20 the board and to manufacturers, importers, wholesalers, and  
21 warehouses licensed by the board. These small package delivery  
22 carriers are not required to maintain in the vehicle or within  
23 the possession of the driver of the vehicle a bill of lading,  
24 consignment, or any other documentary evidence of any portion  
25 of the cargo being transported other than information  
26 available on the package shipping label.

1           "~~(c)~~(d) Any violation of subsection ~~(a)~~ (b) of this  
2 section shall be a misdemeanor, punishable as provided in  
3 paragraph (1) of subsection (b) of Section 28-3A-25.

4           "~~(d) All laws or parts of law which conflict or are~~  
5 ~~inconsistent with this section are hereby repealed, provided,~~  
6 ~~however, the provisions of Section 28-1-3 are excluded."~~

7           Section 2. (a) Any person currently licensed in this  
8 or any other state as a wine producer, supplier, importer,  
9 wholesaler, distributor, or retailer who obtains a wine direct  
10 shipper license, as provided in this section, may ship  
11 annually up to 24 cases of wine, each case not exceeding nine  
12 liters of wine, directly to a resident of Alabama who is at  
13 least 21 years of age for such resident's personal use and not  
14 for resale.

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

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

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

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

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

25           (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) Whether located within or outside of this state,  
11 collect and properly remit all state and local sales or use  
12 taxes and excise taxes due on sales to Alabama residents.

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

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

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

25          (d) A wine direct shipper licensee may renew its  
26 license with the board by paying a fifty dollar (\$50) renewal

1 fee annually and providing the board a true copy of its  
2 current alcoholic beverage license issued in this or any other  
3 state.

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

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

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

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

1                   Section 4. 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.