

1 SB234
2 183271-3
3 By Senator Holtzclaw
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 23-FEB-17

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to alcoholic beverages; to amend Sections
12 28-3A-6 and 28-4A-3, Code of Alababma 1975, to clarify that
13 manufacturers and brewpubs are not required to maintain name,
14 address, or other personal demographic information for certain
15 sales.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

19 "§28-3A-6.

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

1 beverages within this state or for sale or distribution within
2 this state or to the state, the board, or any licensee of the
3 board, unless such person or the authorized representative of
4 the person shall be granted a manufacturer license issued by
5 the board.

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

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

1 "(d) All such manufacturer licensees shall be
2 required to mail to the board prior to the twentieth day of
3 each month a consolidated report of all shipments of alcoholic
4 beverages made to each wholesaler during the preceding month.
5 Such reports shall be in such form and containing such
6 information as the board may prescribe.

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

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

1 which is subject to inspection hereunder, or any place where
2 such records are kept for the purpose of making such
3 inspections and making transcripts thereof.

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

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

15 "All alcoholic beverages manufactured and retained
16 on the manufacturer's licensed premises for tasting or
17 sampling shall remain on the premises and be dispensed from a
18 barrel or keg or other original containers.

19 "(2) Notwithstanding subdivision (1), a manufacturer
20 licensee engaged in the manufacture of less than 60,000
21 barrels of beer per year may sell at retail on its licensed
22 premises in the state, for off-premises consumption, beer
23 produced at that licensed premises; provided, however, beer
24 sold for off-premises consumption: May not exceed 288 ounces
25 per customer per day; may not be produced pursuant to a
26 contract with another manufacturer; and shall be sealed,
27 labeled, packaged, and taxed in accordance with state and

1 federal laws and regulations. For purposes of this
2 subdivision, beer produced by a parent, subsidiary, or
3 affiliate of the licensee, or by a contract brewery,
4 regardless of where the beer is produced, shall be included
5 for purposes of calculating the 60,000 barrel limit.

6 "(3) A manufacturer licensee engaged in the
7 manufacture of liquor on the manufacturer's licensed premises
8 in the state may sell at retail on its licensed premises, for
9 off-premises consumption, liquor manufactured at that licensed
10 premises; provided, however, liquor sold for off-premises
11 consumption may not exceed 750 milliliters per customer per
12 day and shall be sealed, labeled, packaged, and taxed in
13 accordance with state and federal laws and regulations. The
14 manufacturer licensee shall keep and maintain records for
15 three years of all sales for off-premises consumption.

16 "(4) Notwithstanding subdivision (1), the board may
17 grant a permit allowing a manufacturer licensee engaged in the
18 manufacture of less than 50,000 gallons of table wine per year
19 in the state to establish and operate one additional off-site
20 tasting room to be used to conduct tastings or samplings and
21 to sell at retail the licensee's table wine. The board may
22 also grant a single permit allowing an association
23 representing the majority of wineries and grape growers in the
24 state to establish and operate one off-site tasting room to be
25 used to conduct tastings and samplings and to sell at retail
26 table wines produced by wine manufacturer licensees in the
27 state. An applicant for an off-site tasting room permit shall

1 file a written application with the board in such form and
2 containing such information as the board may prescribe, along
3 with proof of consent and approval from the appropriate
4 governing authority in which the off-site tasting room is to
5 be located and a filing fee of fifty dollars (\$50). All state
6 and federal laws and regulations applicable to on-site tasting
7 rooms shall apply to an off-site tasting room. Wine sold at an
8 off-site tasting room for off-premises consumption may not
9 exceed one case of wine per customer per day. For purposes of
10 this subdivision, one case of wine means the equivalent of
11 twelve 750-milliliter bottles of wine.

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

1 instance acting merely as an agent of the state for the
2 collection and payment of the tax levied by Section 28-3-184;
3 as an agent for the county or municipality for the collection
4 and payment of the tax levied by Section 28-3-190; as an agent
5 for the county or municipality for collection and payment of
6 the tax levied by Section 28-7-18; and as an agent for the
7 state for collection and payment of the tax levied by Sections
8 28-3-200 to 28-3-205, inclusive.

9 "(2) The manufacturer licensee shall keep and
10 maintain all records required to be kept and maintained by
11 manufacturer, wholesaler, and retailer licensees for the tax
12 so levied except that manufacturers are not required to
13 maintain name, address, or other personal demographic
14 information for sales as provided in 28-3A-6(h).

15 "(j) A manufacturer licensee engaged in the
16 manufacture of beer in the state may donate and deliver up to
17 two kegs of the manufacturer's beer to a licensed charitable
18 special event operated by or on behalf of a nonprofit
19 organization. Donations shall be taxed in accordance with
20 state and federal laws and regulations. Any beer remaining at
21 the conclusion of the charitable event shall be returned to
22 the manufacturer for disposal.

23 "(k) A manufacturer licensee engaged in the
24 manufacture of table wine in the state may donate and deliver
25 up to two cases of the manufacturer's table wine to a licensed
26 charitable special event operated by or on behalf of a
27 nonprofit organization. Donations shall be taxed in accordance

1 with state and federal laws and regulations. Any table wine
2 remaining at the conclusion of the charitable event shall be
3 returned to the manufacturer for disposal.

4 "§28-4A-3.

5 "(a) In addition to the licenses authorized to be
6 issued and renewed by the board pursuant to the Alcoholic
7 Beverage Licensing Code codified as Chapter 3A of this title,
8 the board, upon applicant's compliance with the provisions of
9 this chapter and with Chapter 3A and the regulations made
10 thereunder, is authorized to issue to a qualified applicant a
11 brewpub license which shall authorize the licensee to
12 manufacture or brew beer, in a quantity not to exceed 10,000
13 barrels in any one year and to sell beer brewed on the
14 licensed premises in unpackaged form at retail for on-premises
15 consumption at the licensed premises only; to sell beer brewed
16 on the licensed premises in packaged form at retail for
17 off-premises consumption, provided the beer sold for
18 off-premises consumption may not exceed 288 ounces per
19 customer per day and shall be sealed, labeled, packaged, and
20 taxed in accordance with state and federal laws and
21 regulations; to sell beer brewed on the premises in original,
22 unopened barrel or keg containers to any licensed wholesaler
23 designated by a brewpub licensee pursuant to Sections 28-8-2
24 and 28-9-3 for resale to retail licensees; to donate and
25 deliver up to two kegs of the licensee's beer to a licensed
26 charitable special event operated by or on behalf of a
27 nonprofit organization; provided, however, donations shall be

1 taxed in accordance with state and federal laws and
2 regulations, and any beer remaining at the conclusion of the
3 charitable event shall be returned to the manufacturer for
4 disposal; and to purchase beer, including draft or keg beer,
5 in original, unopened containers from licensed wholesalers and
6 to sell such beer at retail for on-premises consumption only,
7 in a room or rooms or place on the licensed premises at all
8 times accessible to the use and accommodation of the general
9 public, subject to the following conditions:

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

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

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

24 "(4) The brewpub may not sell any alcoholic
25 beverages if it is not actively and continuously engaged in
26 the manufacture or brewing of alcoholic beverages on the
27 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), and
10 28-3A-6(i)(2) shall be applicable."

11 Section 2. This act shall become effective on the
12 first day of the third month following its passage and
13 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Fiscal Responsibility and Economic
Development..... 23-FEB-17

Read for the second time and placed on the calen-
dar with 1 substitute and..... 09-MAR-17

Read for the third time and passed as amended 15-MAR-17

Yeas 27
Nays 0

Patrick Harris
Secretary