

1 HB464
2 192253-1
3 By Representatives Blackshear and Boothe
4 RFD: Economic Development and Tourism
5 First Read: 27-FEB-18

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8 SYNOPSIS: Under existing law, a person or entity
9 licensed by the Alabama Alcoholic Beverage Control
10 Board as a manufacturer engaged in the manufacture
11 of liquor on the manufacturer's licensed premises
12 may sell at retail up to 750 milliliters of its
13 product per day per customer for off-premises
14 consumption.

15 This bill would increase this amount to 4.5
16 liters per day per customer for off-premises
17 consumption.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
22

23 Relating to alcoholic beverages; to amend Section
24 28-3A-6, Code of Alabama 1975, relating to persons or entities
25 licensed by the Alabama Alcoholic Beverage Control Board as a
26 manufacturer of liquor on its premises, to increase the amount

1 a manufacturer is authorized to sell to a customer for
2 off-premises consumption per day.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

6 "§28-3A-6.

7 "(a) Upon applicant's compliance with the provisions
8 of this chapter and the regulations made thereunder, the board
9 shall issue to applicant a manufacturer license which shall
10 authorize the licensee to manufacture or otherwise distill,
11 produce, ferment, brew, bottle, rectify, or compound alcoholic
12 beverages within this state or for sale or distribution within
13 this state. No person shall manufacture or otherwise distill,
14 produce, ferment, brew, bottle, rectify or compound alcoholic
15 beverages within this state or for sale or distribution within
16 this state or to the state, the board, or any licensee of the
17 board, unless such person or the authorized representative of
18 the person shall be granted a manufacturer license issued by
19 the board.

20 "(b) No manufacturer licensee shall sell any
21 alcoholic beverages direct to any retailer or for consumption
22 on the premises where sold except as specified under
23 subsection (h), nor sell or deliver any such alcoholic
24 beverages in other than original containers approved as to
25 capacity by the board and in accordance with standards of fill
26 prescribed by the U. S. Treasury Department, nor maintain or
27 operate within the state any place or places, other than the

1 place or places covered by the manufacturer license, where
2 alcoholic beverages are sold or where orders are taken.

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

14 "(d) All such manufacturer licensees shall be
15 required to mail to the board prior to the twentieth day of
16 each month a consolidated report of all shipments of alcoholic
17 beverages made to each wholesaler during the preceding month.
18 Such reports shall be in such form and containing such
19 information as the board may prescribe.

20 "(e) Every manufacturer shall keep at its principal
21 place of business within the state, daily permanent records
22 which shall show the quantities of raw materials received and
23 used in the manufacture of alcoholic beverages, and the
24 quantities of alcoholic beverages manufactured and stored, the
25 sale of alcoholic beverages, the quantities of alcoholic
26 beverages stored for hire or transported for hire by or for

1 the licensee and the names and addresses of the purchasers or
2 other recipients thereof.

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

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

21 "(h) (1) A manufacturer licensee actively and
22 continuously engaged in the manufacture of alcoholic beverages
23 on the manufacturer's licensed premises in the state may
24 conduct tastings or samplings on the licensed premises, as
25 regulated by the ABC Board except as to quantity and hours of
26 operation, or as otherwise provided by statute, and for that

1 purpose give away or sell alcoholic beverages manufactured
2 there for consumption on only one premises where manufactured.

3 "All alcoholic beverages manufactured and retained
4 on the manufacturer's licensed premises for tasting or
5 sampling shall remain on the premises and be dispensed from a
6 barrel or keg or other original containers.

7 "(2) Notwithstanding subdivision (1), a manufacturer
8 licensee engaged in the manufacture of less than 60,000
9 barrels of beer per year may sell at retail on its licensed
10 premises in the state, for off-premises consumption, beer
11 produced at that licensed premises; provided, however, beer
12 sold for off-premises consumption: May not exceed 288 ounces
13 per customer per day; may not be produced pursuant to a
14 contract with another manufacturer; and shall be sealed,
15 labeled, packaged, and taxed in accordance with state and
16 federal laws and regulations. For purposes of this
17 subdivision, beer produced by a parent, subsidiary, or
18 affiliate of the licensee, or by a contract brewery,
19 regardless of where the beer is produced, shall be included
20 for purposes of calculating the 60,000 barrel limit.

21 "(3) A manufacturer licensee engaged in the
22 manufacture of liquor on the manufacturer's licensed premises
23 in the state may sell at retail on its licensed premises, for
24 off-premises consumption, liquor manufactured at that licensed
25 premises; provided, however, liquor sold for off-premises
26 consumption may not exceed ~~750 milliliters~~ 4.5 liters per
27 customer per day and shall be sealed, labeled, packaged, and

1 taxed in accordance with state and federal laws and
2 regulations. The manufacturer licensee shall keep and maintain
3 records for three years of all sales for off-premises
4 consumption.

5 "(4) Notwithstanding subdivision (1), the board may
6 grant a permit allowing a manufacturer licensee engaged in the
7 manufacture of less than 50,000 gallons of table wine per year
8 in the state to establish and operate one additional off-site
9 tasting room to be used to conduct tastings or samplings and
10 to sell at retail the licensee's table wine. The board may
11 also grant a single permit allowing an association
12 representing the majority of wineries and grape growers in the
13 state to establish and operate one off-site tasting room to be
14 used to conduct tastings and samplings and to sell at retail
15 table wines produced by wine manufacturer licensees in the
16 state. An applicant for an off-site tasting room permit shall
17 file a written application with the board in such form and
18 containing such information as the board may prescribe, along
19 with proof of consent and approval from the appropriate
20 governing authority in which the off-site tasting room is to
21 be located and a filing fee of fifty dollars (\$50). All state
22 and federal laws and regulations applicable to on-site tasting
23 rooms shall apply to an off-site tasting room. Wine sold at an
24 off-site tasting room for off-premises consumption may not
25 exceed one case of wine per customer per day. For purposes of
26 this subdivision, one case of wine means the equivalent of
27 twelve 750-milliliter bottles of wine.

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

25 "(2) The manufacturer licensee shall keep and
26 maintain all records required to be kept and maintained by
27 manufacturer, wholesaler, and retailer licensees for the tax

1 so levied except that manufacturers are not required to
2 maintain name, address, or other personal demographic
3 information for sales as provided in subsection (h).

4 "(j) A manufacturer licensee engaged in the
5 manufacture of beer in the state may donate and deliver up to
6 two kegs of the manufacturer's beer to a licensed charitable
7 special event operated by or on behalf of a nonprofit
8 organization. Donations shall be taxed in accordance with
9 state and federal laws and regulations. Any beer remaining at
10 the conclusion of the charitable event shall be returned to
11 the manufacturer for disposal.

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

20 Section 2. This act shall become effective
21 immediately following its passage and approval by the
22 Governor, or its otherwise becoming law.