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3 HOUSE COMMERCE AND SMALL BUSINESS COMMITTEE SUBSTITUTE FOR  
4 HB350

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9 SYNOPSIS: Currently, there is no specific license  
10 issued by the Alcoholic Beverage Control Board  
11 relating to direct shipping of limited quantities  
12 of wine to Alabama residents for their personal  
13 use.

14 This bill would allow a licensed wine  
15 manufacturer to obtain a wine direct shipper permit  
16 from the Alcoholic Beverage Control Board to allow  
17 the permittee to ship limited quantities of wine  
18 directly to Alabama residents for their personal  
19 use.

20 This bill would authorize delivery service  
21 carriers to deliver wine directly to residents.

22 This bill would also provide that a person  
23 who ships wine directly to a resident without a  
24 permit is guilty of a Class C misdemeanor.

25 Amendment 621 of the Constitution of Alabama  
26 of 1901, now appearing as Section 111.05 of the  
27 Official ReCompilation of the Constitution of

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

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

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

23 To provide for a wine direct shipper license; to  
24 amend Section 28-1-4, Code of Alabama 1975, and to add Section  
25 28-3A-6.1 to the Code of Alabama 1975; to allow a licensed  
26 wine manufacturer or a manufacturer who holds a federal basic  
27 wine manufacturing permit to obtain a wine direct shipper

1 permit from the Alcoholic Beverage Control Board to allow the  
2 permittee to ship limited quantities of wine directly to  
3 Alabama residents for their personal use; to provide for the  
4 permitting procedure; to provide restrictions and requirements  
5 on the direct shipment of wine; to provide for issuance and  
6 renewal fees for the wine direct shipper permit; to authorize  
7 delivery service carriers to deliver wine to residents; to  
8 provide that the direct shipment of wine without a permit  
9 constitutes a Class C misdemeanor; and in connection therewith  
10 would have as its purpose or effect the requirement of a new  
11 or increased expenditure of local funds within the meaning of  
12 Amendment 621 of the Constitution of Alabama of 1901, now  
13 appearing as Section 111.05 of the Official Recompilation of  
14 the Constitution of Alabama of 1901, as amended.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

18 "§28-1-4.

19 "(a) The words and phrases used in this section  
20 shall have the meanings ascribed to them in Section 28-3-1 and  
21 any acts amendatory thereof, supplementary thereto or  
22 substituted therefor.

23 "(b) It shall be unlawful for common or permit  
24 carriers, operators of trucks, buses or other conveyances or  
25 out-of-state manufacturers or suppliers to make delivery of  
26 any alcoholic beverage from ~~without~~ outside the State of  
27 Alabama to any person, association or corporation within the

1 state, except to the Alabama Alcoholic Beverage Control Board  
2 and to manufacturers, importers, wholesalers and warehouses  
3 licensed by the Alabama Alcoholic Beverage Control Board to  
4 receive the alcoholic beverages so delivered.

5 "(c) (1) Notwithstanding subsection (b), a delivery  
6 service carrier may transport and deliver shipments of wine to  
7 a resident in the state who is at least 21 years of age at the  
8 direction of a wine direct shipper permittee, as provided in  
9 Section 28-3A-6.1. A delivery service carrier is not required  
10 to maintain in the vehicle or within the possession of the  
11 driver of the vehicle a bill of lading, consignment, or any  
12 other documentary evidence of the cargo being transported  
13 other than information available on the package shipping  
14 label.

15 "(2) A delivery service carrier who transports and  
16 delivers shipments of wine under this subsection shall file  
17 quarterly reports with the Audit Division of the board and the  
18 Sales and Use Tax Division of the Department of Revenue of all  
19 wine shipments during the reporting period that report all of  
20 the following with regard to each shipment:

21 "a. The name and business address of the wine direct  
22 shipper permittee who directed the delivery service carrier to  
23 ship wine under Section 28-3A-6.1.

24 "b. The weight of the shipment.

25 "c. The name and address of the consumer to whom the  
26 wine was shipped.

27 "d. A unique tracking number.

1           "e. The date of delivery.

2           "(3) Reports made under subdivision (2) shall be  
3 considered public records for purposes of Article 3,  
4 commencing with Section 36-12-40, of Chapter 12 of Title 36  
5 and shall be made available to law enforcement officers.

6           "(4) Any willful failure by a delivery service  
7 carrier to comply with the reporting requirements in this  
8 subsection that continues for more than 90 days after  
9 receiving notice by the board or Department of Revenue of the  
10 failure, may result in the suspension of the delivery service  
11 carrier's license to operate in the state or the imposition of  
12 any other penalty the relevant licensing authority in the  
13 state is authorized to impose.

14           ~~"(c)(d) Any violation of subsection (a) of this~~  
15 ~~section (b) shall be a misdemeanor, punishable as provided in~~  
16 ~~paragraph subdivision (1) of subsection (b) of Section~~  
17 ~~28-3A-25.~~

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

21           Section 2. Section 28A-3A-6.1 is added to the Code  
22 of Alabama 1975, to read as follows:

23           §28-3A-6.1.

24           (a) Any person licensed in this state as a wine  
25 manufacturer or who holds a federal basic wine manufacturing  
26 permit may obtain a wine direct shipper permit, as provided in  
27 this section, and may ship annually up to 18 cases of wine to

1 any one consumer in a 12-month period, each case not exceeding  
2 nine liters of wine. The wine shall be shipped directly to a  
3 resident of Alabama who is at least 21 years of age for the  
4 resident's personal use and not for resale.

5 (b) In order to receive a permit to ship wine to an  
6 Alabama resident, the applicant for a wine direct shipper  
7 permit shall do all of the following:

8 (1) File an application with the Alcoholic Beverage  
9 Control Board.

10 (2) Pay a filing fee of two hundred dollars (\$200).

11 (3) Provide to the board a true copy of its current  
12 manufacturer license issued in this state or its federal basic  
13 wine manufacturing permit.

14 (c) A wine direct shipper permittee:

15 (1) May not ship more wine than is specified in  
16 subsection (a) to any one consumer in a 12-month period.

17 (2) May not ship any wine to any premises licensed  
18 by the board.

19 (3) Shall ensure that all containers of wine shipped  
20 directly to a resident in this state are conspicuously labeled  
21 with the words: "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21  
22 OR OLDER REQUIRED FOR DELIVERY."

23 (4) If located outside of this state, shall report,  
24 at the direction of the board, the total amount of wine  
25 directly shipped to consumers in the state during the  
26 preceding calendar year.

1           (5) Whether located within or outside of this state,  
2 collect and properly remit all state and local sales or use  
3 taxes and excise taxes due on sales to Alabama residents.

4           (6) Shall permit the board or the Department of  
5 Revenue to perform an audit of the wine direct shipper  
6 permittee's records upon request.

7           (7) Shall be deemed to have consented to the  
8 jurisdiction of the board or any law enforcement agency and  
9 the Alabama courts concerning enforcement of this section and  
10 any related laws or administrative rules.

11           (d) A wine direct shipper permittee may renew its  
12 permit with the board by paying annually a renewal fee of  
13 fifty dollars (\$50) and providing the board a true copy of its  
14 current manufacturer license issued in this state.

15           (e) The board may promulgate rules pursuant to the  
16 Alabama Administrative Procedure Act to implement this  
17 section.

18           (f) The board may enforce the requirements of this  
19 section to suspend or revoke a wine direct shipper permit by  
20 the same administrative proceedings that apply to alcoholic  
21 beverage licenses, and the board may accept payment of a fine  
22 in lieu of suspension or revocation, such payments to be  
23 determined by rule promulgated by the board.

24           (g) Shipments of wine direct to consumers in Alabama  
25 from persons who do not possess a current wine direct shipper  
26 permit pursuant to this section are prohibited, and any person

1 who knowingly makes, participates in, or transports such a  
2 shipment is guilty of a Class C misdemeanor.

3 Section 3. Although this bill would have as its  
4 purpose or effect the requirement of a new or increased  
5 expenditure of local funds, the bill is excluded from further  
6 requirements and application under Amendment 621, now  
7 appearing as Section 111.05 of the Official Recompilation of  
8 the Constitution of Alabama of 1901, as amended, because the  
9 bill defines a new crime or amends the definition of an  
10 existing crime.

11 Section 4. 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.