

1 HB350
2 190110-1
3 By Representatives Collins, Ellis, Moore (P), Nordgren, Whitt,
4 Lipscomb, Wilcox, Reynolds, Wadsworth, Scott, Brown (K), Wood
5 (D), Gaston, Ingram, Johnson, Brown (C), McMillan, Simpson and
6 Coleman
7 RFD: Commerce and Small Business
8 First Read: 04-APR-19

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

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

19 This bill would authorize delivery services
20 approved by the board to deliver wine directly to
21 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 currently
26 licensed wine manufacturer to obtain a wine direct shipper
27 permit from the Alcoholic Beverage Control Board to allow the

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

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

17 "§28-1-4.

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

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

1 manufacturers, importers, wholesalers and warehouses licensed
2 by the Alabama Alcoholic Beverage Control Board to receive the
3 alcoholic beverages so delivered; provided, however, wine may
4 be shipped to a resident who is at least 21 years of age in
5 the state at the direction of a wine direct shipper permittee
6 in accordance with Section 28-3A-6.1.

7 "(c) Notwithstanding subsection (b), a delivery
8 service may transport and deliver shipments of wine to a
9 resident at the direction of a wine direct shipper permittee.
10 The delivery service shall maintain in the vehicle or within
11 the possession of the driver of the vehicle a bill of lading,
12 consignment, or other documentary evidence of the cargo being
13 transported.

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

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

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

22 §28-3A-6.1.

23 (a) Any person currently licensed in this state as a
24 wine manufacturer who obtains a wine direct shipper permit, as
25 provided in this section, may ship annually up to 24 cases of
26 wine, each case not exceeding nine liters of wine. The wine
27 shall be shipped directly to a resident of Alabama who is at

1 least 21 years of age for the resident's personal use and not
2 for resale.

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

6 (1) File an application with the Alcoholic Beverage
7 Control Board.

8 (2) Pay a filing fee of one hundred dollars (\$100).

9 (3) Provide to the board a true copy of its current
10 manufacturer license issued in this state.

11 (c) A wine direct shipper permittee:

12 (1) May not ship more wine than is specified in
13 subsection (a).

14 (2) May not ship any wine to any premises licensed
15 by the board.

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

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

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

1 (6) If located within this state, shall provide the
2 Department of Revenue and the board any additional information
3 deemed necessary beyond that already required for retail sales
4 from the manufacturer's tasting room to ensure compliance with
5 this section.

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

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

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

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

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

26 (g) Shipments of wine direct to consumers in Alabama
27 from persons who do not possess a current wine direct shipper

1 permit pursuant to this section are prohibited, and any person
2 who knowingly makes, participates in, or transports such a
3 shipment is guilty of a Class C misdemeanor.

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

12 Section 4. This act shall become effective on the
13 first day of the third month following its passage and
14 approval by the Governor, or its otherwise becoming law.