

HB484 INTRODUCED



1 HBKD63-1
2 By Representative Faulkner
3 RFD: Economic Development and Tourism
4 First Read: 17-May-23
5 2023 Regular Session



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SYNOPSIS:

Under existing law, breweries that produce less than 10,000 barrels of beer annually may operate as a licensed brewpub which allows them to sell their beer directly to consumers.

This bill would allow brewpubs to transfer beer between brewpubs under the same ownership in certain circumstances.

This bill would also require beer to be transferred to certain tanks prior to sale for the purpose of determining the tax due on beer sales.

A BILL
TO BE ENTITLED
AN ACT

Relating to brewpubs; to amend Section 28-4A-3, Code of Alabama 1975; to authorize the transfer of beer between brewpubs in certain circumstances and to provide further for determining taxes due on beer sales.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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



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29 "§28-4A-3

30 (a) In addition to the licenses authorized to be issued
31 and renewed by the board pursuant to the Alcoholic Beverage
32 Licensing Code codified as Chapter 3A of this title, the
33 board, upon applicant's compliance with this chapter, Chapter
34 3A, and the rules adopted thereunder, and the conditions set
35 forth in subsection (b), may issue to a qualified applicant a
36 brewpub license which shall authorize the licensee to do all
37 of the following:

38 (1) ~~Manufacture or brew~~Produce beer, in a quantity not
39 to exceed 10,000 barrels in any one year, and to sell beer
40 ~~brewed~~produced on the licensed premises in unpackaged form at
41 retail for on-premises consumption at the licensed premises
42 only.

43 (2) Sell beer ~~brewed~~produced on the licensed premises
44 in packaged form at retail for off-premises consumption,
45 provided the beer sold for off-premises consumption may not
46 exceed 864 ounces per customer per day and shall be sealed,
47 labeled, packaged, and taxed in accordance with state and
48 federal laws and regulations.

49 (3) Sell beer ~~brewed~~produced on the premises in
50 original, unopened barrel, ~~or~~ keg, or package containers to
51 any licensed wholesaler designated by a brewpub licensee
52 pursuant to Sections 28-8-2 and 28-9-3 for resale to retail
53 licensees.

54 (4) Donate and deliver up to 31 gallons of the
55 licensee's beer to a licensed charitable special event
56 operated by or on behalf of a nonprofit organization;



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57 provided, however, donations shall be taxed in accordance with
58 state and federal laws and regulations, and any beer remaining
59 at the conclusion of the charitable event shall be returned to
60 the brewpub for disposal.

61 (5) Purchase beer, including draft or keg beer, in
62 original, unopened containers from licensed wholesalers and to
63 sell such beer at retail for on-premises consumption only, in
64 a room or rooms or place on the licensed premises at all times
65 accessible to the use and accommodation of the general public.

66 (b) A brewpub is subject to all of the following
67 conditions:

68 (1) The proposed location of the premises shall not, at
69 the time of the original application, be prohibited by a valid
70 zoning ordinance or other ordinance in the valid exercise of
71 police power by the governing body of the municipality or
72 county in which the brewpub is located.

73 (2) Beer ~~brewed~~produced by the brewpub licensee shall
74 be packaged or contained in barrels, kegs, or serving tanks
75 from which the beer is to be dispensed only on the premises
76 where ~~brewed~~produced for consumption on the premises or sold
77 in original, unopened barrel or keg containers to any
78 designated wholesaler licensee for resale to retailer
79 licensees. Serving tanks shall be tax-determined beer tanks
80 accurately calibrated with appropriate measuring devices.
81 Brewpubs shall transfer beer that is ready for consumption or
82 sale from fermenters into an empty tax-determination tank for
83 measurement by the approved measuring device. Brewpubs shall
84 make accurate records of these transactions to determine the



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85 amount of tax due.

86 (3) The brewpub must contain and operate a restaurant
87 or otherwise provide food for consumption on the premises.

88 (4) The brewpub may not sell any alcoholic beverages if
89 it is not actively and continuously engaged in the manufacture
90 ~~or brewing~~ of alcoholic beverages on the brewpub's licensed
91 premises.

92 (c) The annual license fee levied and prescribed for a
93 license as a brewpub issued or renewed by the board is one
94 thousand dollars (\$1,000).

95 (d) A manufacturer that sells, on an annual basis, an
96 amount equal to no more than 60,000 barrels of beer, may have
97 a financial interest in a brewpub, including a brewpub that
98 also has a restaurant retail license, provided the
99 manufacturer may not transfer alcoholic beverages directly
100 from the manufacturer to the brewpub, but may purchase
101 alcoholic beverages from an authorized wholesaler or as
102 otherwise provided by law, and may not have a financial
103 interest in any retailer other than a brewpub.

104 (e) Section 28-3-4 and subsection (b) of Section
105 28-3A-6 shall not be applicable with regard to beer ~~brewed~~
106 produced by either of the following and sold and dispensed on
107 the brewpub premises:

108 (1) The brewpub.

109 (2) A manufacturer described in, and in compliance
110 with, subsection (d).

111 (f) Beer may be transferred directly between qualifying
112 brewpubs of the same ownership in accordance with all



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113 applicable state and federal laws, rules, and regulations and
114 sold at retail pursuant to this subsection as if it were
115 produced at the receiving brewpub's licensed premises;
116 provided, however, if at any time the combined total barrelage
117 production of the brewpubs exceeds the 10,000-barrel limit as
118 provided in subdivision (a)(1), retail sales of transferred
119 beer pursuant to this subdivision shall not be permitted.
120 Taxes shall be levied at the time the beer is allocated by the
121 receiving brewpub for the purpose of retail sale in accordance
122 with Section 28-4A-4(a). For purposes of this subsection,
123 "same ownership" means at least 75 percent ownership or
124 control of one brewpub by another brewpub, or by the same
125 persons for both brewpubs."

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