# House Economic Development and Tourism Reported Substitute for HB593

A BILL

TO BE ENTITLED

AN ACT

Relating to alcoholic beverages; to amend Sections 28-4A-1 through 28-4A-6, Code of Alabama 1975, and redesignate these sections as Article 1 of Chapter 4A of Title 28, Code of Alabama 1975; to add Sections 28-4A-7, 28-4A-8, 28-4A-9 to Article 1 of Chapter 4A of Title 28, Code of Alabama 1975; to add Articles 2, 3, and 4 to Chapter 4A of Title 28, Code of Alabama 1975; to create the Alabama Small Craft Alcoholic Beverages Act; to create new categories of licenses for small craft distilleries and small craft wineries and create a new license for small craft alcoholic beverage manufacturers that operate a brewpub, small craft winery, or small craft distillery or any combination of these; to provide for qualifications and license requirements; to permit a brewpub, small craft winery, or small craft distillery to allow tours of their manufacturing facilities; to provide for sales by a brewpub, small craft winery, or small craft distillery, at off-premises events open to the public; to provide that a brewpub, small craft winery, or small craft distillery, or any other alcoholic beverage manufacturer, may maintain a storage facility off the licensed manufacturing premises; to require the Alcoholic Beverage Control Board to administer and enforce the act; and to amend Section 28-3A-13.1, Code of Alabama 1975, to make conforming changes.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 28-4A-1 through 28-4A-6, Code of Alabama 1975, are designated as Article 1 of Chapter 4A of Title 28 and are amended to read as follows:

Article 1. General Provisions; Small Craft Alcoholic Beverage manufacturers.

"§28-4A-1

This chapter shall be known as and may be cited as the "Alabama ~~Brewpub~~ Small Craft Alcoholic Beverages Act.""

"§28-4A-2

(a) The ~~words and phrases~~ terms used in this chapter shall have the meanings ascribed to them as defined in Section 28-3-1~~, and any acts amendatory thereof, supplementary thereto or substituted therefor~~.

(b) ~~The~~ For purposes of this chapter, the following ~~words or phrases, whenever they appear in this chapter, unless the context clearly indicates otherwise, shall have the meaning ascribed to them in this subsection~~terms have the following meanings:

(1) BREWPUB. Any premises upon which beer is actively and continuously manufactured or brewed, subject to the barrel production limitation prescribed in ~~this chapter~~Article 2, for consumption on the premises where manufactured, or for sale to any designated wholesaler licensee for resale to retail licensees.

(2) HYBRID CRAFT ALCOHOLIC BEVERAGE COMPLEX. A campus or area upon which a brewpub, a small craft distillery, and a small craft winery, or any combination of these, operate under one license issued by the board pursuant to this article.

~~(2)~~(3) PREMISES. Any building~~,~~ or structure, or portion thereof, designated as a historic building and site as defined in Section 40-8-1, or located in a registered historic district or located in any economically distressed area designated as suitable by the municipal or county governing body, in which is located the operations of a brewpub, a small craft distillery, or a small craft winery.

(4) SMALL CRAFT DISTILLERY. Any premises upon which liquor is actively and continuously manufactured or distilled, subject to the production volume limitation prescribed in Article 3, for consumption on the premises where manufactured, or for sale to the board or a liquor wholesaler licensee for resale to retail licensees.

(5) SMALL CRAFT WINERY. Any premises upon which table wine is actively and continuously manufactured, subject to the production volume limitation prescribed in Article 4, for consumption on the premises where manufactured, or for sale to any designated wine wholesaler licensee for resale to retail licensees."

"§28-4A-3

~~(a) In addition to the licenses authorized to be issued and renewed by the board pursuant to the Alcoholic Beverage Licensing Code codified as Chapter 3A of this title, the board, upon applicant's compliance with this chapter, Chapter~~

~~3A, and the rules adopted thereunder, and the conditions set forth in subsection (b), may issue to a qualified applicant a brewpub license which shall authorize the licensee to do all of the following:~~

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

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

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

~~(4) Donate and deliver up to 31 gallons of the licensee's beer to a licensed charitable special event operated by or on behalf of a nonprofit organization; provided, however, donations shall be taxed in accordance with state and federal laws and regulations, and any beer remaining at the conclusion of the charitable event shall be returned to the brewpub for disposal.~~

~~(5) Purchase beer, including draft or keg beer, in original, unopened containers from licensed wholesalers and to sell such beer at retail for on-premises consumption only, in~~

~~a room or rooms or place on the licensed premises at all times accessible to the use and accommodation of the general public.~~

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

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

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

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

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

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

~~(d) A manufacturer that sells, on an annual basis, an amount equal to no more than 60,000 barrels of beer, may have a financial interest in a brewpub, including a brewpub that also has a restaurant retail license, provided the~~

~~manufacturer may not transfer alcoholic beverages directly from the manufacturer to the brewpub, but may purchase alcoholic beverages from an authorized wholesaler or as otherwise provided by law, and may not have a financial interest in any retailer other than a brewpub.~~

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

~~(1) The brewpub.~~

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

(a) In addition to the licenses provided for in Articles 2 through 4, the board may issue a hybrid craft alcoholic beverage complex license to any person licensed as a brewpub, small craft distillery, or small craft winery, or who meets the qualification for licensure as a brewpub, a small craft distillery, or a small craft winery, and who meets the qualifications in subsection (b). A hybrid craft alcoholic beverage complex license shall authorize the licensee to operate a brewpub, a small craft winery, or a small craft distillery, or any combination of these.

(b) To qualify as a hybrid craft alcoholic beverage complex:

(1) The applicant must meet the license qualifications under Article 2, 3, or 4, as applicable, corresponding to the type or types of alcoholic beverages the applicant intends to manufacture; and

(2) Each type of alcoholic beverage must be manufactured on a separate premises, as determined, by rule, by the board, but all the properties upon which the premises are located must be contiguous and walkable.

(c) If the applicant already holds a valid, current license under Article 2, 3, or 4 when making application for a license under this section, the board may convert the existing license into a hybrid craft alcoholic beverage complex license.

(d)(1) The annual license fee levied and prescribed for a license as a hybrid craft alcoholic beverage complex issued or renewed by the board is two thousand dollars ($2,000).

(2) Notwithstanding subdivision (1), if the board converts an existing license into a hybrid craft alcoholic beverage complex license, the initial license fee shall be one thousand dollars ($1,000) and each annual renewal fee shall be as provided in subdivision (1)."

"§28-4A-4

~~(a) In addition to the licenses provided for by this chapter and any county or municipal license, there is levied on the brewpub for on-premises sales of beer brewed by the brewpub licensee the privilege or excise taxes imposed by Sections 28-3-184 and 28-3-190. Every brewpub licensee shall file the tax returns, pay the taxes, and perform all obligations imposed on wholesalers at the times and places set forth therein. It shall be unlawful for any brewpub licensee who is required to pay the taxes so imposed in the first instance to fail or refuse to add to the sales price and~~

~~collect from the purchaser the required amount of tax, it being the intent and purpose of this provision that each of the taxes levied is in fact a tax on the consumer, with the brewpub licensee who pays the tax in the first instance acting merely as an agent of the state for the collection and payment of the tax levied by Section 28-3-184 and as an agent of the county or municipality for the collection and payment of the tax levied by Section 28-3-190. Taxes on beer shall be levied at the time the beer is allocated for the purpose of retail sale and not at the time the beer is dispensed for consumption.~~

~~(b) The brewpub shall be required to keep and maintain all of the records otherwise required to be kept and maintained by manufacturer, wholesaler, and retailer licensees.~~

~~(c) The brewpub shall appoint a licensed wholesaler designee in order to preserve Section 28-9-1. In addition, for on-premises sales of beer brewed by the brewpub licensee, the brewpub shall be exempt from Sections 28-9-3 through 28-9-11.~~

The board may adopt rules to administer and enforce this chapter."

"§28-4A-5

~~A violation of any provision of this chapter shall constitute an unlawful act. A finding by the board that the~~ The board shall revoke the license of a brewpub, ~~licensee is guilty of violating any provision of~~ a small craft distillery, a small craft winery, or a hybrid craft alcoholic beverage complex if the board makes a finding that the licensee violated this chapter~~ shall effect an automatic revocation of the license~~."

"§28-4A-6

The Legislature finds that it is in the best interest of the public welfare of the State of Alabama to preserve and redevelop the downtown municipal areas and registered historic districts and certain economically distressed areas of this state and to further promote the preservation and redevelopment of historic buildings and sites. The Legislature finds that an effective way of facilitating the urban redevelopment program and the preservation of historic buildings and sites, and registered historic districts and any economically distressed area designated as suitable by the municipal or county governing body is by creating a single exception to the existing alcoholic beverage laws to authorize and permit the establishment of brewpubs, small craft wineries, and small craft distilleries located in such historic buildings, sites, or districts in urban redevelopment areas or economically distressed areas of those municipalities ~~located within counties where the brewing of beer for consumption by the public had historically been located~~ or counties. The policy and intent of the Legislature in the enactment of this chapter is to promote the public welfare by further regulating and controlling alcoholic beverage transactions in Alabama under the control and supervision of the Alabama Alcoholic Beverage Control Board to accomplish this legislative purpose~~ set forth herein~~."

Section 2. Sections 28-4A-7, 28-4A-8, and 28-4A-9 are added to Article 1 of Chapter 4A of Title 28, Code of Alabama 1975, to read as follows:

§28-4A-7

(a) A license issued under this article, or under Article 2, 3, or 4, authorizes the licensee to afford patrons the opportunity to participate in a guided tour of the distillery, brewery, or winery manufacturer operations as applicable, if the tour includes an educational component in which an in-person guide informs patrons about the historic and scientific characteristics of the alcoholic beverage manufactured on the licensed premises.

(b) A licensee may offer a tasting or sampling of the alcoholic beverage manufactured on the licensed premises upon conclusion of the tour in accordance with all of the following requirements:

(1) A tasting session shall be in a designated, enclosed area that is separate from all other designated areas on the licensed premises.

(2) A patron may tour the manufacturing operation of more than one type of alcoholic beverage manufactured by the licensee, but may participate in no more than one tasting session per day.

(3) The price of the tasting or sampling must be included in the price charged to patrons over 21 years of age for the guided tour.

(4) No retail sale of an alcoholic beverage, whether for on-premises or off-premises consumption, shall be authorized pursuant to a tour.

(5) Each session shall be limited to no more than two tastings or samplings, each of which:

a. In the case of liquor, shall not exceed one-half ounce, with or without a nonalcoholic mixer;

b. In the case of beer, shall not exceed four ounces; and

c. In the case of table wine, shall not exceed one and one-half ounce.

§28-4A-8

(a) For purposes of this section, a "public event" is any event sponsored by a private or nonprofit organization lasting no longer than three consecutive days, to which the public is invited, whether free or upon payment for admission, including, but not limited to, a farmers market, music festival, art festival, or other exhibition to which vendors may be invited to display and sell their products.

(b)(1) Upon application to the board upon a form prescribed by the board, at least 20 days in advance of the event and accompanied by a nonrefundable fee not to exceed one hundred fifty dollars ($150), the board may issue a tasting room extension license to an applicant that is licensed under this chapter.

(2) A tasting room extension license issued to a licensee under this chapter authorizes the recipient to do all of the following with respect to an alcoholic beverage manufactured on the recipient's premises at a public event:

a. Dispense samples of the alcoholic beverage to event attendees from an original container, of no more than one-half ounce in the case of liquor, four ounces in the case of beer, and one and one-half ounces in the case of table wine.

b. Sell the alcoholic beverage at retail, packaged for consumption off the event site in accordance with state and federal laws and regulations, including, but not limited to, federal regulations related to standard of fill:

1. For liquor, in bottles not to exceed a total of 4.5 liters per customer per day;

2. For beer, in bottles or cans not to exceed a total of 864 ounces per customer per day; or

3. For table wine, a total not to exceed twelve 750-milliliter bottles per customer per day.

(c) A tasting room extension licensee may not sell any alcoholic beverage to retailers or sell alcoholic beverages that the licensee does not manufacture.

(d) A tasting room extension licensee who is licensed pursuant to this article may only dispense samples or sell for consumption pursuant to subsection (b), one type of alcoholic beverage which it manufactures.

(e) The board may issue a tasting room extension license upon submission by the applicant of the following:

(1) Proof of compliance with any municipal or county license or permit requirement.

(2) Proof of registration, including payment of a booth fee as acknowledged by the event sponsor, to include defining the area under each applicant's exclusive control.

(3) Proof of liquor liability insurance, including a written statement from the applicant's liquor liability

insurer that the applicant's existing policy covers the activities of the applicant at the public event.

(f) Any licensee under this chapter shall be limited to no more than 12 tasting room extension licenses per calendar year.

(g)(1) A tasting room extension licensee shall collect and remit all state and local sales and use taxes and all excise and other taxes due, pursuant to Article 2, 3, or 4 as applicable, on the sale of the alcoholic beverage by the participant licensee to customers at retail.

(2) Notwithstanding subdivision (1), a tasting room extension licensee that also sells an alcoholic beverage at retail, in a method and manner established by the Department of Revenue, may include the collection and remittance of all state taxes due on the sale of the alcoholic beverage sold at the public event in the same method and manner as other sales of the same alcoholic beverage at retail.

(h) The board is authorized to adopt rules and prescribe forms to implement and enforce this section.

§28-4A-9

(a) For purposes of this section, a "licensed manufacturer" includes a manufacturer who is licensed pursuant to this chapter or Section 28-3A-6.

(b) Upon approval of the board, a licensed manufacturer may be allowed one off-premises manufacturer extension location for the exclusive storage of finished and unfinished goods pursuant to the requirements of subsection (c).

(c) An application for approval of an off-premises manufacturer extension location shall include:

(1) Documentation of approval of the manufacturer extension by the Alcohol and Tobacco Tax and Trade Bureau;

(2) A lease, deed, or other document showing control of the property by the licensed manufacturer; and

(3) A current license issued by the board.

(d) The application for an off-premises manufacturing extension must be approved by the board before it is put into use by the manufacturer licensee.

(e) An off-premises manufacturing extension is subject to all of the following conditions:

(1) The extension may not be located outside of the state.

(2) The extension may not be used for the exportation of products nor for any form of distribution of products within the state.

(3) The extension may not be located more than 10 miles from the licensed manufacturer's premises.

(4) No sales, sampling, or tastings of any alcoholic beverage shall be allowed at the extension.

(5) The extension premises shall be secured at all times.

(f) Authorized representatives of the board or law enforcement officers of the state, or the county or municipality in which the manufacturer extension premises is located, may enter and search, without a warrant, the extension premises. The extension premises encompasses any building owned or occupied by the licensee that adjoins, is adjacent to, or is otherwise part of the curtilage of the premises, including a building used as a private dwelling.

(g) The licensed manufacturer shall maintain all records related to the disposition of the finished or unfinished goods stored in the off-premises extension, as applicable.

(h) The finished and unfinished goods may be transported in bond from the licensed manufacturer's original premises to the extension location for storage. Transportation shall be made by the licensee or an employee of the same in a vehicle bearing signage on each side identifying the licensee. Included in the transportation vehicle shall be a current copy of the board's approval of the extension and the bill of lading or other documentation of ownership of the product being transported.

Section 3. A new Article 2, commencing with Section 28-4A-20; Article 3, commencing with Section 28-4A-40; and Article 4, commencing with Section 28-4A-60, are added to Chapter 4A of Title 28, Code of Alabama 1975, to read as follows:

Article 2. Brewpubs.

§28-4A-20

(a) In addition to the licenses authorized to be issued and renewed by the board pursuant to Chapter 3A, the board, upon the applicant's compliance with this article, Chapter 3A, and the rules adopted thereunder, and the conditions set forth in subsection (b), may issue to a qualified applicant a brewpub license that shall authorize the licensee to do all of the following:

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

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

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

(4) Donate and deliver up to 31 gallons of the licensee's beer to a licensed charitable special event operated by or on behalf of a nonprofit organization. Donations shall be taxed in accordance with state and federal laws, rules, and regulations, and any beer remaining at the conclusion of the charitable event shall be returned to the brewpub for disposal.

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

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

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

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

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

(4) A brewpub may not sell any alcoholic beverages if the brewpub is not actively and continuously engaged in the manufacture or brewing of beer on the brewpub's licensed premises.

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

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

(e) Sections 28-3-4 and 28-3A-6(b) shall not be applicable with regard to beer brewed by either of the following and sold and dispensed on the brewpub premises:

(1) The brewpub.

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

§28-4A-21

(a) In addition to the licenses provided for by this chapter and any county or municipal license, there is levied on the brewpub licensee for on-premises sales of beer brewed by the brewpub licensee the privilege or excise taxes imposed by Sections 28-3-184 and 28-3-190. Every brewpub licensee shall file the tax returns, pay the taxes, and perform all obligations imposed on wholesalers at the times and places set forth therein. It shall be unlawful for any brewpub licensee who is required to pay the taxes so imposed in the first instance to fail or refuse to add to the sales price and collect from the purchaser the required amount of tax, it being the intent and purpose of this provision that each of the taxes levied is in fact a tax on the consumer, with the brewpub licensee who pays the tax in the first instance acting merely as an agent of the state for the collection and payment of the tax levied by Section 28-3-184 and as an agent of the county or municipality for the collection and payment of the tax levied by Section 28-3-190. Taxes on beer shall be levied at the time the beer is allocated for the purpose of retail sale and not at the time the beer is dispensed for consumption.

(b) The brewpub shall keep and maintain all of the records otherwise required to be kept and maintained by manufacturer, wholesaler, and retailer licensees.

(c) The brewpub shall appoint a licensed wholesaler designee in order to preserve Section 28-9-1. In addition, for on-premises sales of beer brewed by the brewpub licensee, the brewpub shall be exempt from Sections 28-9-3 through 28-9-11.

Article 3. Small Craft Distilleries.

§28-4A-40

(a) In addition to the licenses authorized to be issued and renewed by the board pursuant to Chapter 3A, the board, upon the applicant's compliance with this article, Chapter 3A, and the rules adopted thereunder, and the conditions set forth in subsection (b), may issue to a qualified applicant a small craft distillery license which shall authorize the licensee to do all of the following:

(1) Distill liquor, in a quantity not to exceed 50,000 gallons in any one year, and sell liquor distilled on the licensed premises in unpackaged form at retail for on-premises consumption at the licensed premises only.

(2) Sell liquor distilled on the licensed premises in original, unopened containers at retail for off-premises consumption, provided the liquor sold for off-premises consumption may not exceed 4.5 liters per customer per day and shall be sealed, labeled, packaged, and taxed in accordance

with state and federal laws, rules, and regulations.

(3) Sell liquor distilled on the premises in original, unopened containers to the board or as authorized by the board.

(4) Donate and deliver up to 4.5 liters of the licensee's liquor to a licensed charitable special event operated by or on behalf of a nonprofit organization. Donations shall be taxed in accordance with state and federal laws, rules, and regulations. Any liquor remaining at the conclusion of the charitable event shall be returned to the small craft distillery for disposal.

(5) Purchase liquor in original, unopened containers from the board or as authorized by the board and sell the liquor at retail, for on-premises consumption only, in a room or rooms or place on the licensed premises at all times accessible to the use and accommodation of the general public and limited to individuals 21 years of age and older.

(b) A small craft distillery is subject to all of the following conditions:

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

(2) Liquor distilled by the licensee shall be packaged and sold in any original or unopened containers as approved by the board and in accordance with the standards of fill

requirements prescribed by the U.S. Department of the Treasury or contained in barrels or kegs from which the liquor is to be dispensed only on the premises where distilled for consumption on the premises.

(3) A small craft distillery may not sell any liquor if the small craft distillery is not actively and continuously engaged in the distilling of liquor on the licensed premises.

(c) The annual license fee levied and prescribed for a license as a small craft distillery issued or renewed by the board is one thousand dollars ($1,000).

(d) Sections 28-3-4 and 28-3A-6(b) shall not be applicable with regard to liquor distilled by the small craft distillery and sold and dispensed on the licensed premises.

§28-4A-41

(a)(1) In addition to the licenses provided for by this chapter and any county or municipal license, there is levied and assessed upon all liquor distilled on the premises of a licensee which is dispensed or sold at retail for on-premises or off-premises consumption the mark up in accordance with Section 28-3-53.2(c) and added to the list or FOB price; and the privilege or excise tax imposed on liquor by Sections 28-3-200 through 28-3-205. Taxes and mark up described in this subsection shall be remitted by the licensee to the board. The taxes collected shall be distributed in the same manner as the taxes collected in a state liquor store.

(2) The tax levied in this subsection shall be collected by a return which shall be filed by the licensee with the board postmarked not later than the last day of the

month following the month of production or sale of liquor, which shall be accompanied by the remittance of the tax due. The report shall include, but not be limited to, a consolidated report of all liquor distilled, sold, or otherwise consumed on the licensed premises. The report shall be in the form and containing information as the board may prescribe.

(3) If a licensee fails to file any return required to be filed with the board on or before the date prescribed in subdivision (2), including any written extension of time granted by the board in advance, there shall be assessed as a penalty the greater of 10 percent of any additional tax required to be paid with the return or fifty dollars ($50).

(4) If a licensee fails to pay to the board the amount of the tax due on a return required to be filed on or before the date prescribed for payment of the tax, including any written extension of time granted by the board in advance, there shall be added as a penalty 10 percent of the unpaid amount due on the return.

(5) Interest shall be added to any tax due to the board which is not paid by the due date, from the due date of the tax, computed based on the underpayment rate established by the Secretary of the Treasury under the authority of 26 U.S.C. § 6621.

(b) A small craft distillery shall be required to keep and maintain all of the records otherwise required to be kept and maintained by manufacturer, wholesaler, and retailer licensees.

Article 4. Small Craft Wineries.

§28-4A-60

(a) In addition to the licenses authorized to be issued and renewed by the board pursuant to Chapter 3A, the board, upon the applicant's compliance with this article, Chapter 3A, and the rules adopted thereunder, and the conditions set forth in subsection (b), may issue to a qualified applicant a small craft winery license which shall authorize the licensee to do all of the following:

(1) Manufacture or produce table wine, in a quantity not to exceed 50,000 gallons in any one year, and sell wine manufactured on the licensed premises at retail for on-premises consumption at the licensed premises only.

(2) Sell table wine manufactured on the licensed premises in original, unopened containers at retail for off-premises consumption, provided the wine sold for off-premises consumption may not exceed twelve 750-milliliter bottles per customer per day and shall be sealed, labeled, packaged, and taxed in accordance with state and federal laws, rules, and regulations.

(3) Sell table wine manufactured on the premises in original, unopened containers to any licensed wine wholesaler designated by a small craft winery licensee pursuant to Section 28-8A-4 for resale to retail licensees.

(4) Donate and deliver up to two cases of the licensee's table wine to a licensed charitable special event operated by or on behalf of a nonprofit organization. Donations shall be taxed in accordance with state and federal

laws, rules, and regulations. Any wine remaining at the conclusion of the charitable event shall be returned to the small craft winery for disposal.

(5) Purchase table wine in original, unopened containers from licensed wine wholesalers and sell the wine at retail for on-premises consumption only, in a room or rooms or place on the licensed premises at all times accessible to the use and accommodation of the general public.

(b) A small craft winery is subject to all of the following conditions:

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

(2) Wine manufactured by the licensee shall be packaged and sold in any original containers as approved by the board and in accordance with the standards of fill requirements prescribed by the U.S. Department of the Treasury or contained in bottles to be dispensed only on the premises where fermented for consumption on the premises.

(3) A small craft winery may not sell any table wine if the small craft winery is not actively and continuously engaged in the production of table wine on the licensed premises.

(c) The annual license fee levied and prescribed for a license as a small craft winery issued or renewed by the board is one thousand dollars ($1,000).

(d) Sections 28-3-4 and 28-3A-6(b) shall not be applicable with regard to wine manufactured by the small craft winery and sold and dispensed on the licensed premises.

§28-4A-61

(a) In addition to the licenses provided for by this chapter and any county or municipal license, there is levied on a small craft winery for on-premises and off-premises sales of table wine manufactured by the licensee privilege and excise tax pursuant to Section 28-7-16 due on the sale of table wine to consumers. Every small craft winery licensee shall file the tax returns, pay the taxes, and perform all obligations imposed on wholesalers at the times and places set forth therein. It shall be unlawful for any small craft winery licensee who is required to pay the taxes so imposed in the first instance to fail or refuse to add to the sales price and collect from the purchaser the required amount of tax, it being the intent and purpose of this provision that each of the taxes levied is in fact a tax on the consumer, with the small craft winery licensee who pays the tax in the first instance acting merely as an agent of the state for the collection and payment of the tax.

(b) A small craft winery shall be required to keep and maintain all of the records otherwise required to be kept and maintained by manufacturer, wholesaler, and retailer licensees.

(c) A small craft winery shall appoint a licensed wholesaler designee pursuant to Section 28-8A-4 for any table wine designated for resale to retail licensees.

Section 4. Section 28-3A-13.1, Code of Alabama 1975, is amended to make conforming changes to read as follows:

"§28-3A-13.1

(a) Any entity licensed by the board for off-premises consumption, restaurant licensee of the board, or valid and responsible organization of good reputation that is registered to do business in the state may apply for and be issued a delivery service license. In order to receive a license, an applicant shall do all of the following:

(1) File an application with the board.

(2) Pay a ~~non-refundable~~ nonrefundable filing fee of one hundred dollars ($100), and a license fee of two hundred fifty dollars ($250).

(3) Provide to the board a sample contract that the applicant intends to enter into with a retailer for the delivery of beer, wine, and spirits, unless the applicant is the retailer.

(4)a. Provide to the board both of the following:

1. An attestation that the applicant is 21 years of age or older.

2. A true, correct, and complete criminal court record of all arrests and subsequent dispositions for the past three years. If the applicant has been convicted of a felony or a misdemeanor for a violation of Section 28-3A-25(a)(3), then the board shall reject the application and shall not issue a license.

b. This subdivision shall not apply to publicly traded companies.

(5)a. For an applicant with four or more delivery drivers, whether those drivers are employees or independent contractors, provide proof of a general liability insurance policy in an amount no less than five million dollars ($5,000,000) per occurrence.

b. For an applicant with three or fewer delivery drivers, whether those delivery drivers are employees or independent contractors, provide proof of a general liability insurance policy in an amount no less than two million dollars ($2,000,000) per occurrence.

(6) Provide to the board an outline for an internal or external training and certification program for delivery personnel which addresses topics such as identifying underage individuals, intoxicated individuals, and fake or altered identification.

(b) A delivery service licensee may deliver, or contract with any retailer in the state for the delivery of, beer, wine, or spirits from a retail premises to an individual in the state who is at least 21 years of age, for personal use by that individual only, and not for resale, subject to all of the following:

(1) The individual placing the order must receive the ordered alcoholic beverages on the same calendar day that the alcoholic beverages are removed from the licensed retail premises.

(2) Any delivery shall be made in vehicles that are owned or leased by the delivery service licensee or an

employee or independent contractor of the licensee.

(3) Any beer, wine, or spirits shall be delivered in a sealed unopened container.

(4) If the delivery service licensee is a restaurant, then any beer, wine, or spirits delivered by the licensee must be accompanied by a meal.

(5) If the delivery service licensee is a manufacturer or brewpub with off-premises retail privileges under Sections 28-3A-6, 28-4A-3, 28-4A-20, 28-4A-40, 28-4A-60, or 28-7-18, the manufacturer or brewpub may deliver, directly from the manufacturer or brewpub to any individual in any single 24-hour period, an amount not to exceed the amount that the manufacturer or brewpub is authorized to sell to each customer each day under Sections 28-3A-6 or 28-4A-3.

(6)a.1. Beer, with the exception of draft beer, may be delivered in any size container, provided that the total amount delivered does not exceed the equivalent of 120 12-ounce containers of beer per customer in any single 24-hour period.

2. Draft beer may be sold in accordance with board rules in a total amount not to exceed 288 ounces per customer in any single 24-hour period, and may be delivered only where delivery has been authorized by resolution or ordinance of the local governing jurisdiction.

b. Wine may be sold in any size container, provided ~~that~~ the total amount delivered does not exceed 9,000 milliliters or the equivalent of ~~12~~twelve 750-milliliter bottles of wine per customer in any single 24-hour period.

c. Spirits may be sold in any size bottle by an off-premises licensee~~;~~, provided~~,~~ the total amount delivered does not exceed 9,000 milliliters per customer in any single 24-hour period.

d. Spirits may be sold in any size bottle by a restaurant licensee~~;~~, provided~~,~~ the total amount delivered does not exceed 375 milliliters per customer in any single 24-hour period.

(7) Any employee or independent contractor delivering beer, wine, or spirits shall comply with all of the following:

a. Is at least 21 years of age.

b. Has a valid ~~driver's~~ driver license.

c. Has, within the last 24 months, undergone a criminal history background check that includes driving records, and the results of which comply with all of the following:

1. The individual has not been convicted within the past seven years of driving under the influence.

2. The individual has not been convicted, at any time, of a crime involving a sexual offense, fraud, property damage, theft, an act of violence, or an act of terror.

3. The individual does not have a match on the National Sex Offender Registry.

d. Does not receive compensation based on whether an attempted delivery of beer, wine, or spirits results in a completed transaction.

e. Is trained and certified consistent with the training program submitted to the board as required by subdivision (a)(6), with documentation on file with the delivery service licensee. Upon request, the licensee shall provide this documentation to the board.

(8) A delivery service licensee may facilitate orders for the sale and delivery of beer, wine, or spirits by telephone, Internet, or by other electronic means~~;~~, provided~~,~~ all of the following occur:

a. The delivery service licensee shall obtain from the customer a confirmation that he or she is at least 21 years of age at the time the order is placed.

b. The delivery service licensee shall ensure all payments have been processed for delivery prior to removing the alcoholic beverages from the licensed premises.

c. If the delivery service licensee is a retail licensee, any order for sale and delivery of beer, wine, or spirits received at the licensee's primary place of business or through a ~~third party~~ third-party licensee or facilitator shall be construed as a sale made at the licensee's primary place of business.

(9) Any delivery in a sealed package shall be stamped, printed, or labeled in a manner approved by the board, and that stamp, print, or label shall be prominently displayed on the outside of the sealed package to indicate in readily apparent font or type that the package contains alcohol and that the signature of an individual at least 21 years of age is required for delivery.

(10) A delivery service licensee shall require each recipient, at the time of delivery, to provide valid photo identification that conforms to board rules and that verifies

that he or she is at least 21 years of age, and shall require the recipient to sign for the delivery.

(11) A delivery service licensee shall possess identification scanning software technology, or a state-of-the-art alternative approved by the board, available at the point of delivery that verifies the recipient is at least 21 years of age and retains the recipient's name, date of birth, and signature.

(12) A delivery service licensee shall provide each employee or independent contractor making a delivery with either a printed copy of the delivery service license or an electronic copy indicating the delivery service ~~license's~~ licensee's name and number, which shall be available for inspection upon request from the board or any law enforcement officer.

(13) A delivery service licensee shall return any beer, wine, or spirits to the retailer if the recipient is under ~~the age of~~ 21 years of age; appears intoxicated; fails to provide proof of identification; fails or refuses to sign for delivery; fails to complete the identification scanning software process or state-of-the-art alternative; declines to accept the delivery of beer, wine, or spirits; or any circumstances in the delivery environment which indicate illegal conduct, overconsumption, or an otherwise unsafe environment for the consumption of alcohol. In no event shall a delivery service licensee leave an alcoholic beverage delivery unattended.

(14) A delivery service licensee may ~~deliver~~drive

through a dry county or municipality <u>to deliver</u>, but may not deliver or cause a delivery to be made to an individual residing in a dry county or dry municipality. Every employee or independent contractor conducting a delivery shall maintain within the delivery vehicle evidence, electronic or otherwise, that the intended recipient of any alcoholic beverages is not located in a dry county or dry municipality.

(15) A delivery service licensee may deliver alcoholic beverages only during hours when alcoholic beverages may be sold under general or local law.

(16) A delivery service licensee may not deliver any alcoholic beverage to any residence hall on the grounds of any institution of higher learning, including any college, university, community college, technical college, or junior college.

(17) A delivery service licensee may not deliver alcoholic beverages to a location more than 75 miles from the licensed premise of the retail licensee where the delivery originated.

(18) A delivery service licensee may not deliver any alcoholic beverage to any licensee of the board.

(19) A delivery service licensee shall report, at the direction of the board, the total amount of beer, wine, or spirits directly delivered to residents in the state during the preceding calendar year.

(20) A delivery service licensee shall permit the board or the Department of Revenue to perform an audit of the licensee's records upon request.

(c) A delivery service licensee shall be deemed to have consented to the jurisdiction of the board, any law enforcement agency, and the Alabama courts concerning enforcement of this section and any related laws or rules.

(d) A delivery service licensee shall be considered to be a servant or agent of the retail licensee with whom the delivery service licensee has contracts, and any violation by the delivery service licensee, its employees, or its independent contractors may also be deemed to be a violation by the retail licensee.

(e) A technology services company shall not be required to obtain a delivery service license if the company does not employ or contract with the individual making the deliveries, but merely provides software or a digital network application that connects consumers and licensed retailers for the delivery of alcoholic beverages from a licensed retailer.

(f) A delivery service licensee may renew its license with the board by paying an annual renewal fee of two hundred fifty dollars ($250) and by otherwise complying with the renewal process set forth in Section 28-3A-5.

(g) The board may enforce the requirements of this section to suspend or revoke a delivery service license by the same administrative proceedings that apply to alcoholic beverage licenses, and the board may accept payment of a fine in lieu of suspension or revocation. The payments shall be as determined by rule of the board.

(h) Except as provided in this section, local ordinances establishing different rules on delivery, delivery service licensees, or requiring additional permits or fees, are prohibited.

(i) The board may adopt rules pursuant to the Alabama Administrative Procedure Act to implement this section.

(j) Any violation of this section is a Class B misdemeanor upon a first conviction. A second or subsequent conviction is a Class A misdemeanor."

Section 5. This act shall become effective on October 1, 2026.