

8 SYNOPSIS: This bill would allow alcoholic beverage  
9 manufacturer licensees to conduct tastings or  
10 samplings of alcoholic beverages; would require  
11 collection of applicable taxes; would allow the  
12 sale of beer from other manufacturers, including  
13 draft beer; and would require brewpubs to collect  
14 certain taxes and expand the locations for  
15 brewpubs.  
16

17 A BILL  
18 TO BE ENTITLED  
19 AN ACT  
20

21 Relating to the regulation of alcoholic beverages;  
22 to amend the alcoholic beverages license provisions for  
23 manufacturers as defined and provided in Section 28-3A-6, Code  
24 of Alabama 1975, and for brewpubs as defined and provided in  
25 the Alabama Brewpub Act, codified as Chapter 4A, Title 28,  
26 Code of Alabama 1975; to amend the manufacturer license set  
27 forth in Section 28-3A-6, Code of Alabama 1975, to permit a

1 manufacturer licensee engaged in the manufacture of alcoholic  
2 beverages in Alabama to conduct unrestricted tastings or  
3 samplings on only one licensed premises by giving away or  
4 selling alcoholic beverages manufactured where dispensed for  
5 on-premises consumption; to require and provide for the  
6 collection and payment of taxes on alcoholic beverages  
7 dispensed on the premises; and to amend Sections 28-4A-2,  
8 28-4A-3, 28-4A-4, and 28-4A-6, Code of Alabama 1975, to permit  
9 the sale by the brewpub in original, unopened keg or barrel  
10 containers to any licensed wholesaler designated by the  
11 brewpub licensee pursuant to Sections 28-8-2 and 28-9-3, Code  
12 of Alabama 1975, and to permit the brewpub to buy beer,  
13 including draft or keg beer, of other manufacturers in  
14 original, unopened containers from any designated licensed  
15 wholesaler for resale on the brewpub's premises; to require  
16 and provide for the collection and payment of taxes on  
17 on-premises sales by a brewpub licensee; and to provide for  
18 the location of brewpubs.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Section 28-3A-6, Code of Alabama 1975,  
21 providing for the license of an alcoholic beverage  
22 manufacturer, is amended to read as follows:

23 "§28-3A-6.

24 "(a) Upon applicant's compliance with the provisions  
25 of this chapter and the regulations made thereunder, the board  
26 shall issue to applicant a manufacturer license which shall  
27 authorize the licensee to manufacture or otherwise distill,

1 produce, ferment, brew, bottle, rectify or compound alcoholic  
2 beverages within this state or for sale or distribution within  
3 this state. No person shall manufacture or otherwise distill,  
4 produce, ferment, brew, bottle, rectify or compound alcoholic  
5 beverages within this state or for sale or distribution within  
6 this state or to the state, the board, or any licensee of the  
7 board, unless such person or his authorized representative  
8 shall be granted a manufacturer license issued by the board.

9 "(b) No manufacturer licensee shall sell any  
10 alcoholic beverages direct to any retailer or for consumption  
11 on the premises where sold except as specified under  
12 subsection (h) (1), nor sell or deliver any such alcoholic  
13 beverages in other than original containers approved as to  
14 capacity by the board and in accordance with standards of fill  
15 prescribed by the U. S. Treasury Department, nor maintain or  
16 operate within the state any place or places, other than the  
17 place or places covered by the manufacturer license, where  
18 alcoholic beverages are sold or where orders are taken.

19 "(c) Each manufacturer licensee shall be required to  
20 file with the board, prior to making any sales in Alabama a  
21 list of its labels to be sold in Alabama and shall file with  
22 the board its federal certificate of label approvals or its  
23 certificates of exemption as required by the U. S. Treasury  
24 Department. All liquors and wines whose labels have not been  
25 registered as herein provided for shall be considered  
26 contraband and may be seized by the board or its agents, or  
27 any peace officer of the State of Alabama without a warrant

1 and said goods shall be delivered to the board and disposed of  
2 as provided by law.

3 "(d) All such manufacturer licensees shall be  
4 required to mail to the board prior to the twentieth day of  
5 each month a consolidated report of all shipments of ~~beer and~~  
6 ~~table wine~~ alcoholic beverages made to each wholesaler during  
7 the preceding month. Such reports shall be in such form and  
8 containing such information as the board may prescribe.

9 "(e) Every manufacturer shall keep at his or its  
10 principal place of business within the state, daily permanent  
11 records which shall show the quantities of raw materials  
12 received and used in the manufacture of alcoholic beverages,  
13 and the quantities of alcoholic beverages manufactured and  
14 stored, the sale of alcoholic beverages, the quantities of  
15 alcoholic beverages stored for hire or transported for hire by  
16 or for the licensee and the names and addresses of the  
17 purchasers or other recipients thereof.

18 "(f) Every place licensed as a manufacturer shall be  
19 subject to inspection by members of the board or by persons  
20 duly authorized and designated by the board at any and all  
21 times of the day or night as they may deem necessary, for the  
22 detection of violations of this chapter, of any law, or of the  
23 rules and regulations of the board, or for the purpose of  
24 ascertaining the correctness of the records required to be  
25 kept by the licensees. The books and records of such licensees  
26 shall, at all times, be open to inspection by members of the  
27 board, or by persons duly authorized and designated by the

1 board. Members of the board and its duly authorized agents  
2 shall have the right, without hindrance, to enter any place  
3 which is subject to inspection hereunder, or any place where  
4 such records are kept for the purpose of making such  
5 inspections and making transcripts thereof.

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

9 "(h) (1) A manufacturer licensee actively and  
10 continuously engaged in the manufacture of alcoholic beverages  
11 on the manufacturer's licensed premises in the State of  
12 Alabama may conduct tastings or samplings on the licensed  
13 premises, as regulated by the ABC Board except as to quantity  
14 and hours of operation, or as otherwise provided by statute,  
15 and for that purpose give away or sell alcoholic beverages  
16 manufactured there for consumption on only one premises where  
17 manufactured.

18 "(2) All alcoholic beverages manufactured and  
19 retained on the manufacturer's licensed premises for tasting  
20 or sampling shall remain on the premises and be dispensed from  
21 a barrel or keg or other original containers.

22 "(i) (1) In addition to the licenses provided for by  
23 Chapter 3A of Title 28, and any county or municipal license,  
24 there is levied on the manufacturer of the alcoholic beverages  
25 dispensed on the premises the privilege or excise tax imposed  
26 on beer by Sections 28-3-184 and 28-3-190; and imposed on  
27 table wine by Section 28-7-18; and imposed on liquor by

1 Sections 28-3-200 to 28-3-205, inclusive. Every manufacturer  
2 licensee shall file the tax returns, pay the taxes, and  
3 perform all obligations imposed on wholesalers at the times  
4 and places set forth therein. It shall be unlawful for any  
5 manufacturer licensee who is required to pay the taxes so  
6 imposed in the first instance to fail or refuse to add to the  
7 sale price and collect from the purchaser the required amount  
8 of tax, it being the intent and purpose of this provision that  
9 each of the taxes levied is in fact a tax on the consumer,  
10 with the manufacturer licensee who pays the tax in the first  
11 instance acting merely as an agent of the state for the  
12 collection and payment of the tax levied by Section 28-3-184;  
13 as an agent for the county or municipality for the collection  
14 and payment of the tax levied by Section 28-3-190; as an agent  
15 for the county or municipality for collection and payment of  
16 the tax levied by Section 28-7-18; and as an agent for the  
17 state for collection and payment of the tax levied by Sections  
18 28-3-200 to 28-3-205, inclusive.

19 "(2) The manufacturer licensee shall keep and  
20 maintain all records required to be kept and maintained by  
21 manufacturer, wholesaler, and retailer licensees for the tax  
22 so levied."

23 Section 2. Sections 28-4A-2, 28-4A-3, 28-4A-4, and  
24 28-4A-6, Code of Alabama 1975, are amended to read as follows:

25 "§28-4A-2.

26 "(a) The words and phrases used in this chapter  
27 shall have the meanings ascribed to them in Section 28-3-1,

1 and any acts amendatory thereof, supplementary thereto or  
2 substituted therefor.

3 "(b) The following words or phrases, whenever they  
4 appear in this chapter, unless the context clearly indicates  
5 otherwise, shall have the meaning ascribed to them in this  
6 subsection:

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

13 "(2) PREMISES. Any building, structure or portion  
14 thereof designated as a historic building and site as defined  
15 in Section 40-8-1, or located in a registered historic  
16 district or located in any economically distressed area  
17 designated as suitable by the municipal or county governing  
18 body, in which is located the operations of a brewpub.

19 "§28-4A-3.

20 "(a) In addition to the licenses authorized to be  
21 issued and renewed by the board pursuant to the Alcoholic  
22 Beverage Licensing Code codified as Chapter 3A, Title 28, the  
23 board, upon applicant's compliance with the provisions of this  
24 chapter and with Chapter 3A, Title 28, and the regulations  
25 made thereunder, is authorized to issue to a qualified  
26 applicant a brewpub license which shall authorize the licensee  
27 to manufacture or brew beer, in a quantity not to exceed

1 10,000 barrels in any one year and to sell such beer brewed on  
2 the licensed premises in unpackaged form at retail for  
3 on-premises consumption at the licensed premises only, to sell  
4 such beer brewed on the premises in original, unopened barrel  
5 containers to any licensed wholesaler designated by a brewpub  
6 licensee pursuant to Sections 28-8-2 and 28-9-3 for resale to  
7 retail licensees, and to purchase beer, including draft or keg  
8 beer, in original, unopened containers from licensed  
9 wholesalers and to sell such beer at retail for on-premises  
10 consumption only, in a room or rooms or place on the licensed  
11 premises at all times accessible to the use and accommodation  
12 of the general public, subject to the following conditions:

13 "(1) The brewpub premises must be located in an  
14 historic building or site as defined in Section 40-8-1, or in  
15 a registered historic district, or in any economically  
16 distressed area designated as suitable by the municipal or  
17 county governing body, in a wet county or wet municipality, in  
18 which county beer was brewed for public consumption prior to  
19 the ratification of the Eighteenth Amendment to the U.S.  
20 Constitution in 1919.

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

26 "(3) Beer brewed by the brewpub licensee ~~shall not~~  
27 ~~be possessed, sold or dispensed except on the premises where~~

1 ~~brewed,~~ and shall ~~not~~ be packaged or contained in ~~other than~~  
2 barrels from which the beer is to be dispensed only on the  
3 premises where brewed for consumption on the premises or sold  
4 in original, unopened barrel containers to any designated  
5 wholesaler licensee for resale to retailer licensees.

6 "(4) The brewpub must contain and operate a  
7 restaurant ~~with a seating capacity of not less than 80~~ or  
8 otherwise provide food for consumption on the premises.

9 "(5) The brewpub may not sell any alcoholic  
10 beverages if it is not actively and continuously engaged in  
11 the manufacture or brewing of alcoholic beverages on the  
12 brewpub's licensed premises.

13 "(b) The annual license fee levied and prescribed  
14 for a license as a brewpub issued or renewed by the board  
15 pursuant to the authority of this chapter is \$1,000.

16 "(c) Except as provided in this subsection, the  
17 provisions of Title 28 shall be applicable. The provisions of  
18 Section 28-3-4 and subsection (b) of Section 28-3A-6, shall  
19 not be applicable with regard to beer brewed by the brewpub  
20 and sold and dispensed on the brewpub premises. In all other  
21 respects, Section 28-3-4 and Section 28-3A-6(b) shall be  
22 applicable.

23 "§28-4A-4.

24 "(a) In addition to the licenses provided for by  
25 this chapter and any county or municipal license, there is  
26 levied on the brewpub for on-premises sales of beer brewed by  
27 the brewpub licensee the privilege or excise taxes imposed by

1 Sections 28-3-184 and 28-3-190. Every brewpub licensee shall  
2 file the tax returns, pay the taxes and perform all  
3 obligations imposed on wholesalers at the times and places set  
4 forth therein. It shall be unlawful for any brewpub licensee  
5 who is required to pay the taxes so imposed in the first  
6 instance to fail or refuse to add to the sales price and  
7 collect from the purchaser the required amount of tax, it  
8 being the intent and purpose of this provision that each of  
9 the taxes levied is in fact a tax on the consumer, with the  
10 brewpub licensee who pays the tax in the first instance acting  
11 merely as an agent of the state for the collection and payment  
12 of the tax levied by Section 28-3-184 and as an agent of the  
13 county or municipality for the collection and payment of the  
14 tax levied by Section 28-3-190.

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

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

23 "§28-4A-6.

24 "The Legislature finds that it is in the best  
25 interest of the public welfare of the State of Alabama to  
26 preserve and redevelop the ~~original~~ "downtown" municipal areas  
27 and registered historic districts and certain economically

1 distressed areas of this state and to further promote the  
2 preservation and redevelopment of historic buildings and  
3 sites. The Legislature finds that an effective way of  
4 facilitating the urban redevelopment program and the  
5 preservation of historic buildings and sites, and registered  
6 historic districts and any economically distressed area  
7 designated as suitable by the municipal or county governing  
8 body is by creating a single exception to the existing  
9 alcoholic beverage laws to authorize and permit the  
10 establishment of brewpubs located in such historic buildings,  
11 and sites, or districts in urban redevelopment areas or  
12 economically distressed areas of those municipalities located  
13 within counties where the brewing of beer for consumption by  
14 the public had historically been located. The policy and  
15 intent of the Legislature in the enactment of this chapter is  
16 to promote the public welfare by further regulating and  
17 controlling alcoholic beverage transactions in Alabama under  
18 the control and supervision of the Alabama Alcoholic Beverage  
19 Control Board to accomplish this legislative purpose set forth  
20 herein."

21 Section 3. The provisions of this act are severable.  
22 If any part of this act is declared invalid or  
23 unconstitutional, that declaration shall not affect the part  
24 which remains.

25 Section 4. This act shall become effective  
26 immediately following its passage and approval by the  
27 Governor, or its otherwise becoming law.

