

1 HB96
2 165103-1
3 By Representative Brown
4 RFD: Economic Development and Tourism
5 First Read: 03-MAR-15

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SYNOPSIS: Under existing law, a brewery is generally not allowed to operate a restaurant on its premises and dispense alcoholic beverages.

This bill would allow a retail licensee to sell alcoholic beverages for consumption on its premises.

This bill would allow a patron of a craft brewery licensee, or brewpub licensee to exit with open containers of alcoholic beverages and consume alcoholic beverages anywhere within the confines of the entertainment district.

This bill would allow a brewpub to sell alcoholic beverages for on- and off-premises consumption.

This bill would create a license for limited production breweries that allows them to produce beer and operate a restaurant on their licensed premises and sell their beer at the brewery and restaurant.

1 A BILL
2 TO BE ENTITLED
3 AN ACT
4

5 To amend Sections 28-3A-17.1 and 28-4A-3 of the Code
6 of Alabama 1975, relating to the sale of alcoholic beverages
7 in an entertainment district or brewpub; to allow a retail
8 licensee to sell alcoholic beverages for consumption on its
9 premises and to allow a patron of a craft brewery licensee or
10 brewpub licensee to exit with open containers of alcoholic
11 beverages and consume alcoholic beverages anywhere within the
12 confines of the entertainment district; and to create a new
13 Section 28-3A-6.1, Code of Alabama 1975, to license a craft
14 brewer to produce and package no more than 2,000,000 barrels
15 of beer per year; to allow a craft brewer to operate a
16 facility where food is provided on its licensed premises and
17 sell beer on its licensed premises that it produces there.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Sections 28-3A-17.1 and 28-4A-3 of the
20 Code of Alabama 1975, are amended to read as follows:

21 "§28-3A-17.1.

22 "(a) The provisions of this section shall only apply
23 to Class 1, Class 2, Class 3, Class 4, and Class 5
24 municipalities and municipalities with an incorporated arts
25 council, main street program, or downtown development entity.

26 "(b) Upon compliance of the applicant with the
27 provisions of this chapter, and the regulations made

1 thereunder which are not in conflict with the provisions of
2 this section, the Alabama Alcoholic Beverage Control Board may
3 issue an entertainment district designation for any retail
4 license authorized in this chapter which allows the retail
5 licensee to sell alcoholic beverages for consumption on the
6 licensed premises and which licensed premises is located in an
7 entertainment district established as provided in subsection
8 (d). A licensee who receives an entertainment district
9 designation for an on-premises retail license shall comply
10 with all laws, rules, and regulations which govern its license
11 type, except that the patrons, guests, or members of that
12 licensee may exit that licensed premises, or the premises of
13 any craft brewery licensee authorized in this chapter, or the
14 premises of any brewpub licensee authorized in Chapter 4A with
15 open containers of alcoholic beverages and consume alcoholic
16 beverages anywhere within the confines of the entertainment
17 district, which shall be permitted, but may not enter another
18 licensed premises with open containers or closed containers of
19 alcoholic beverages acquired elsewhere.

20 "(c) The permission granted by subsection (b)
21 permitting the consumption of alcoholic beverages anywhere
22 within the confines of the entertainment district shall not
23 extend the confines of the licensed premises.

24 "(d) The governing body of any Class 2, or Class 5
25 municipality covered by Act 2013-382, or a municipality with
26 an incorporated arts council, main street program, or downtown
27 development entity may establish not more than two

1 entertainment districts within its corporate limits, each of
2 which must have not fewer than four licensees holding a retail
3 liquor license in that area, and each district may not exceed
4 one-half mile by one-half mile in area, but may be irregularly
5 shaped.

6 "(e) The governing body of a Class 1 municipality,
7 Class 4 municipality, Class 3 municipality, or any
8 municipality which is located 15 miles north of the Gulf of
9 Mexico, may establish up to five entertainment districts
10 within the corporate limits, each of which must have not fewer
11 than four licensees holding a restaurant retail liquor
12 license, an on-premises alcoholic beverage license, or other
13 retail liquor license in that area and each district may not
14 exceed one-half mile by one-half mile in area, but may be
15 irregularly shaped.

16 "The governing body of a Class 8 municipality which
17 is located in a county with a Class 3 municipality may
18 establish two entertainment districts within its corporate
19 limits which may not have fewer than four licensees holding a
20 retail liquor license in that area and may not exceed one-half
21 mile by one-half mile in area, but may be irregularly shaped.

22 "For the purposes of this subsection, the term
23 on-premises as applied to consumption within such
24 entertainment district shall include anywhere within the
25 district, regardless of the terms and conditions of licensure.

26 "(f) All laws or parts of laws which conflict with
27 this section are repealed. All general, local, and special

1 laws or parts of such laws insofar as they designate or
2 restrict the boundaries, size, or area of such entertainment
3 districts are hereby repealed.

4 "§28-4A-3.

5 "(a) In addition to the licenses authorized to be
6 issued and renewed by the board pursuant to the Alcoholic
7 Beverage Licensing Code codified as Chapter 3A of this title,
8 the board, upon applicant's compliance with the provisions of
9 this chapter and with Chapter 3A and the regulations made
10 thereunder, is authorized to issue to a qualified applicant a
11 brewpub license which shall authorize the licensee to
12 manufacture or brew beer, in a quantity not to exceed 10,000
13 barrels in any one year and to sell beer brewed on the
14 licensed premises in unpackaged form at retail ~~for on-premises~~
15 ~~consumption at the licensed premises only,~~ at the licensed
16 premises for on-premises or off-premises consumption to sell
17 beer brewed on the premises in original, unopened barrel or
18 keg containers to any licensed wholesaler designated by a
19 brewpub licensee pursuant to Sections 28-8-2 and 28-9-3 for
20 resale to retail licensees, and to purchase beer, including
21 draft or keg beer, in original, unopened containers from
22 licensed wholesalers and to sell such beer at retail for
23 on-premises consumption only, in a room or rooms or place on
24 the licensed premises at all times accessible to the use and
25 accommodation of the general public, subject to the following
26 conditions:

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

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

14 "(3) Beer brewed by the brewpub licensee shall be
15 packaged or contained in barrels from which the beer is to be
16 dispensed only on the premises where brewed for consumption on
17 or off the premises or sold in original, unopened barrel or
18 keg containers to any designated wholesaler licensee for
19 resale to retailer licensees.

20 "(4) The brewpub must contain and operate a
21 restaurant or otherwise provide food for consumption on the
22 premises.

23 "(5) The brewpub may not sell any alcoholic
24 beverages if it is not actively and continuously engaged in
25 the manufacture or brewing of alcoholic beverages on the
26 brewpub's licensed premises.

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

4 "(c) Except as provided in this subsection, the
5 provisions of this title shall be applicable. The provisions
6 of Section 28-3-4 and subsection (b) of Section 28-3A-6, shall
7 not be applicable with regard to beer brewed by the brewpub
8 and sold and dispensed on the brewpub premises. In all other
9 respects, Section 28-3-4 and Section 28-3A-6(b) shall be
10 applicable.

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

13 §28-3A-6.1.

14 (a) The words and phrases used in this section shall
15 have the meanings ascribed to them in Section 28-3-1, and any
16 acts amendatory thereof, supplementary thereto, or substituted
17 therefor or as described in subsection (b) of this section.

18 (b) The following words or phrases, whenever they
19 appear in this section, unless the context clearly indicates
20 otherwise, shall have the meaning ascribed to them in this
21 subsection:

22 (1) BREW. The production and packaging of beer.

23 (2) CRAFT BREWER. Any person, association, or
24 corporation that brews collectively at all of its locations,
25 whether within or without this state, and among all of its
26 parents, affiliates, subsidiaries, and partners, no more than
27 2,000,000 barrels of beer per year.

1 (c) Upon a craft brewer's application to the board
2 and compliance with the provisions of this chapter and the
3 regulations made thereunder, the board shall issue to the
4 craft brewer a craft brewer license which shall authorize the
5 licensee to brew no more than 2,000,000 barrels of beer per
6 year within this state or for sale or distribution within this
7 state.

8 (d) A craft brewer licensee may sell its beer in
9 this state to only licensed wholesalers or direct to consumers
10 on the licensed premises as set forth in subsection (i). No
11 craft brewer licensee shall sell any beer direct to any
12 retailer, nor sell or deliver any such beer in other than
13 original containers approved as to capacity by the board and
14 in accordance with standards of fill prescribed by the U. S.
15 Treasury Department, nor maintain or operate within the state
16 any place or places, other than the place or places covered by
17 the craft brewer license, where beer is sold or where orders
18 are taken.

19 (e) Each craft brewer 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.

25 (f) All such craft brewer licensees shall be
26 required to mail to the board prior to the twentieth day of
27 each month a consolidated report of all shipments of beer made

1 to each wholesaler during the preceding month. Such reports
2 shall be in such form and containing such information as the
3 board may prescribe.

4 (g) Every craft brewer shall keep at its principal
5 place of business within the state daily permanent records
6 which shall show the quantities of raw materials received and
7 used in the brewing of beer, and the quantities of beer brewed
8 and stored, the quantity of beer sold, the quantities of beer
9 stored or transported for hire, by or for the licensee, and
10 the names and addresses of the purchasers or other recipients
11 thereof.

12 (h) Every place licensed as a craft brewer shall be
13 subject to inspection by members of the board or by persons
14 duly authorized and designated by the board, at any and all
15 times of the day or night as they may deem necessary, for the
16 detection of violations of this chapter, of any law, or of the
17 rules and regulations of the board, or for the purpose of
18 ascertaining the correctness of the records required to be
19 kept by the licensees. The books and records of such licensees
20 shall, at all times, be open to inspection by members of the
21 board, or by persons duly authorized and designated by the
22 board. Members of the board and its duly authorized agents
23 shall have the right, without hindrance, to enter any place
24 which is subject to inspection hereunder, or any place where
25 such records are kept for the purpose of making such
26 inspections and making transcripts thereof.

1 (i) A craft brewer licensee actively and
2 continuously engaged in brewing beer on the craft brewer's
3 licensed premises in the State of Alabama may, notwithstanding
4 any other provision of law, operate a facility where food is
5 provided on the craft brewer's licensed premises; give away
6 free samples of beer brewed at the licensed premises for
7 on-premises consumption; and sell at retail on its licensed
8 premises, for on-premises or off-premises consumption, beer
9 brewed at that licensed premises.

10 (j)(1) In addition to the licenses provided for by
11 Chapter 3A of this title, and any county or municipal license,
12 there is levied on the craft brewer of the beer dispensed on
13 the premises the privilege or excise tax imposed by Sections
14 28-3-184 and 28-3-190. Every craft brewer licensee shall file
15 the tax returns, pay the taxes, and perform all obligations
16 imposed on wholesalers at the times and places set forth
17 therein. It shall be unlawful for any craft brewer licensee
18 who is required to pay the taxes so imposed in the first
19 instance to fail or refuse to add to the sale price and
20 collect from the purchaser the required amount of tax, it
21 being the intent and purpose of this provision that each of
22 the taxes levied is in fact a tax on the consumer, with the
23 craft brewer licensee who pays the tax in the first instance
24 acting merely as an agent of the state for the collection and
25 payment of the tax levied by Section 28-3-184; and as an agent
26 for the county or municipality for the collection and payment
27 of the tax levied by Section 28-3-190.

1 (2) The craft brewer licensee shall keep and
2 maintain all records required to be kept and maintained by
3 craft brewer, wholesaler, and retailer licensees for the tax
4 so levied.

5 (k) The annual license fee levied and prescribed for
6 a license as a craft brewer issued or renewed by the board
7 pursuant to the authority of this chapter is five hundred
8 dollars (\$500).

9 Section 3. This act shall become effective on the
10 first day of the third month following its passage and
11 approval by the Governor, or its otherwise becoming law.