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3 HOUSE ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE SUBSTITUTE  
4 FOR HB539  
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9 SYNOPSIS: Under existing law, at its premises for  
10 off-premises consumption, a licensed brewpub or  
11 brewery that produces less than 60,000 barrels of  
12 beer per year may sell at retail up to 288 ounces  
13 of beer per customer per day and a licensed  
14 distillery may sell at retail up to 2.25 liters of  
15 liquor per customer per day. Beer produced by a  
16 contract brewery is included for purposes of  
17 calculating whether a brewery has exceeded the  
18 60,000 barrel limit.

19 This bill would allow a brewery or brewpub  
20 to sell up to 864 ounces of beer per customer per  
21 day and a distillery to sell up to 4.5 liters of  
22 liquor per customer per day for off premises  
23 consumption.

24 This bill would also provide that when  
25 calculating whether a licensed brewery produces  
26 less than 60,000 barrels annually, only beer

1 provided by a contract brewery which is produced  
2 exclusively for the brewery shall be considered.

3  
4 A BILL  
5 TO BE ENTITLED  
6 AN ACT

7  
8 Relating to alcoholic beverages; to amend Sections  
9 28-3A-6 and 28-4A-3, Code of Alabama 1975, to revise the daily  
10 limit on how much beer and liquor may be sold by brewpubs and  
11 certain breweries and distilleries to customers for  
12 off-premises consumption, and to provide further for  
13 calculating which breweries qualify to sell beer at their  
14 breweries for off-premises consumption.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 28-3A-6 and 28-4A-3, Code of  
17 Alabama 1975, are amended to read as follows:

18 "§28-3A-6.

19 "(a) Upon the applicant's compliance with this  
20 chapter and the rules adopted under this chapter, the board  
21 shall issue to the applicant a manufacturer license which  
22 ~~shall authorize~~ authorizes the licensee to manufacture or  
23 otherwise distill, produce, ferment, brew, bottle, rectify, or  
24 compound alcoholic beverages within this state for sale or  
25 distribution within this state. No person shall manufacture or  
26 otherwise distill, produce, ferment, brew, bottle, rectify, or  
27 compound alcoholic beverages within this state or for sale or

1 distribution within this state or to the state, the board, or  
2 any licensee of the board, unless the person or the authorized  
3 representative of the person shall be granted a manufacturer  
4 license issued by the board.

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

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

26 "(d) All manufacturer licensees shall be required to  
27 mail to the board prior to the twentieth day of each month a

1 consolidated report of all shipments of alcoholic beverages  
2 made to each wholesaler during the preceding month. ~~Such~~ The  
3 reports shall be in ~~such~~ the form and containing ~~such~~  
4 information as the board may prescribe.

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

14 "(f) Every place licensed as a manufacturer shall be  
15 subject to inspection by members of the board or by ~~persons~~  
16 ~~duly~~ individuals authorized and designated by the board at any  
17 ~~and all times~~ time of the day or night as they may deem  
18 necessary, for the detection of violations of this chapter, of  
19 any law, or of the rules of the board, or for the purpose of  
20 ascertaining the correctness of the records required to be  
21 kept by the licensees. The books and records of ~~such~~ licensees  
22 shall, at all times, be open to inspection by members of the  
23 board, or by ~~persons~~ ~~duly~~ individuals authorized and  
24 designated by the board. Members of the board and its ~~duly~~  
25 authorized agents, without hindrance, may enter any place that  
26 is subject to inspection hereunder or any place where ~~such~~

1 records are kept for the purpose of making ~~such~~ inspections  
2 and making transcripts thereof.

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

6 "(h) (1) A manufacturer licensee actively and  
7 continuously engaged in the manufacture of alcoholic beverages  
8 on the manufacturer's licensed premises in the state may  
9 conduct tastings or samplings on the licensed premises, as  
10 regulated by the board except as to quantity and hours of  
11 operation, or as otherwise provided by ~~statute~~ law, and for  
12 that purpose may give away or sell alcoholic beverages  
13 manufactured there for consumption on only one premises where  
14 manufactured. All alcoholic beverages manufactured and  
15 retained on the manufacturer's licensed premises for tasting  
16 or sampling shall remain on the premises and be dispensed from  
17 a barrel or keg or other original containers.

18 "(2) Notwithstanding subdivision (1), a manufacturer  
19 licensee engaged in the manufacture of less than 60,000  
20 barrels of beer per year may sell at retail on its licensed  
21 premises in the state, for off-premises consumption, beer  
22 produced at that licensed premises; provided, however, beer  
23 sold for off-premises consumption: May not exceed ~~288~~ 864  
24 ounces per customer per day; may not be produced pursuant to a  
25 contract with another manufacturer, and shall be sealed,  
26 labeled, packaged, and taxed in accordance with state and  
27 federal laws and regulations. For purposes of this

1 subdivision, beer produced by a parent, subsidiary, or  
2 affiliate of the licensee, or by a contract brewery  
3 exclusively for the manufacturer, regardless of where the beer  
4 is produced, shall be included for purposes of calculating the  
5 60,000 barrel limit.

6 "(3) A manufacturer licensee engaged in the  
7 manufacture of liquor on the manufacturer's licensed premises  
8 in the state may sell at retail on its licensed premises, for  
9 off-premises consumption, liquor manufactured at that licensed  
10 premises; provided, however, liquor sold for off-premises  
11 consumption may not exceed ~~2.25~~ 4.5 liters per customer per  
12 day and shall be sealed, labeled, packaged, and taxed in  
13 accordance with state and federal laws and regulations. The  
14 manufacturer licensee shall keep and maintain records for  
15 three years of all sales for off-premises consumption.

16 "(4) Notwithstanding subdivision (1), the board may  
17 grant a permit allowing a manufacturer licensee engaged in the  
18 manufacture of less than 50,000 gallons of table wine per year  
19 in the state to establish and operate one additional off-site  
20 tasting room to be used to conduct tastings or samplings and  
21 to sell at retail the licensee's table wine. The board may  
22 also grant a single permit allowing an association  
23 representing the majority of wineries and grape growers in the  
24 state to establish and operate one off-site tasting room to be  
25 used to conduct tastings and samplings and to sell at retail  
26 table wines produced by wine manufacturer licensees in the  
27 state. An applicant for an off-site tasting room permit shall

1 file a written application with the board in ~~such~~ the form and  
2 containing ~~such~~ information as the board may prescribe, along  
3 with proof of consent and approval from the appropriate  
4 governing authority in which the off-site tasting room is to  
5 be located and a filing fee of fifty dollars (\$50). All state  
6 and federal laws and regulations applicable to on-site tasting  
7 rooms shall apply to an off-site tasting room. Wine sold at an  
8 off-site tasting room for off-premises consumption may not  
9 exceed one case of wine per customer per day. For purposes of  
10 this subdivision, one case of wine means the equivalent of  
11 twelve 750-milliliter bottles of wine.

12 "(i) (1) In addition to the licenses provided for by  
13 this chapter, and any county or municipal license, there is  
14 levied on the manufacturer of the alcoholic beverages  
15 dispensed on the premises the privilege or excise tax imposed  
16 on beer by Sections 28-3-184 and 28-3-190; and imposed on  
17 table wine by Section 28-7-18; and imposed on liquor by  
18 Sections 28-3-200 to 28-3-205, inclusive. Taxes on beer shall  
19 be levied at the time the beer is allocated by the beer  
20 manufacturer for the purpose of retail sale and not at the  
21 time the beer is dispensed for consumption. Every manufacturer  
22 licensee shall file the tax returns, pay the taxes, and  
23 perform all obligations imposed on wholesalers at the times  
24 and places set forth therein. It shall be unlawful for any  
25 manufacturer licensee who is required to pay the taxes so  
26 imposed in the first instance to fail or refuse to add to the  
27 sale price and collect from the purchaser the required amount

1 of tax, it being the intent and purpose of this provision that  
2 each of the taxes levied is in fact a tax on the consumer,  
3 with the manufacturer licensee who pays the tax in the first  
4 instance acting merely as an agent of the state for the  
5 collection and payment of the tax levied by Section 28-3-184;  
6 as an agent for the county or municipality for the collection  
7 and payment of the tax levied by Section 28-3-190; as an agent  
8 for the county or municipality for collection and payment of  
9 the tax levied by Section 28-7-18; and as an agent for the  
10 state for collection and payment of the tax levied by Sections  
11 28-3-200 to 28-3-205, inclusive.

12 "(2) The manufacturer licensee shall keep and  
13 maintain all records required to be kept and maintained by  
14 manufacturer, wholesaler, and retailer licensees for the tax  
15 so levied except that manufacturers are not required to  
16 maintain name, address, or other personal demographic  
17 information for sales as provided in subsection (e).

18 "(j) A manufacturer licensee engaged in the  
19 manufacture of beer in the state may donate and deliver up to  
20 31 gallons of the manufacturer's beer to a licensed nonprofit  
21 special event operated by or on behalf of a nonprofit  
22 organization. Donations shall be taxed in accordance with  
23 state and federal laws and regulations. Any beer remaining at  
24 the conclusion of the nonprofit event shall be returned to the  
25 manufacturer for disposal.

26 "(k) A manufacturer licensee engaged in the  
27 manufacture of table wine in the state may donate and deliver



1 up to two cases of the manufacturer's table wine to a licensed  
2 nonprofit special event operated by or on behalf of a  
3 nonprofit organization. Donations shall be taxed in accordance  
4 with state and federal laws and regulations. Any table wine  
5 remaining at the conclusion of the nonprofit event shall be  
6 returned to the manufacturer for disposal.

7 "§28-4A-3.

8 "(a) In addition to the licenses authorized to be  
9 issued and renewed by the board pursuant to the Alcoholic  
10 Beverage Licensing Code codified as Chapter 3A of this title,  
11 the board, upon applicant's compliance with this chapter,  
12 Chapter 3A and the rules adopted thereunder, and the  
13 conditions set forth in subsection (b), may issue to a  
14 qualified applicant a brewpub license which shall authorize  
15 the licensee to do all of the following:

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

20 "(2) Sell beer brewed on the licensed premises in  
21 packaged form at retail for off-premises consumption, provided  
22 the beer sold for off-premises consumption may not exceed ~~288~~  
23 864 ounces per customer per day and shall be sealed, labeled,  
24 packaged, and taxed in accordance with state and federal laws  
25 and regulations.

26 "(3) Sell beer brewed on the premises in original,  
27 unopened barrel or keg containers to any licensed wholesaler

1 designated by a brewpub licensee pursuant to Sections 28-8-2  
2 and 28-9-3 for resale to retail licensees.

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

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

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

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

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

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

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

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

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

20           "(e) Section 28-3-4 and subsection (b) of Section  
21 28-3A-6 shall not be applicable with regard to beer brewed by  
22 either of the following and sold and dispensed on the brewpub  
23 premises:

24           "(1) The brewpub.

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

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