

1 213583-3 : n : 04/28/2021 : SINGLETON / af

2
3 TOURISM & MARKETING COMMITTEE SUBSTITUTE FOR HB539, AS
4 ENGROSSED

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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 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 This bill would provide for the sale of
4 table wines at retail in containers approved by the
5 Alcoholic Beverage Control Board.

6 This bill would revise the definition of
7 beer.

8 This bill would also revise the amount of
9 beer a brewpub may donate to a charitable special
10 event.

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT
15

16 Relating to alcoholic beverages; to amend Sections
17 28-3-1, 28-3A-6, 28-3A-14, and 28-4A-3, Code of Alabama 1975,
18 to revise the daily limit on how much beer and liquor may be
19 sold by brewpubs and certain breweries and distilleries to
20 customers for off-premises consumption; to provide further for
21 calculating which breweries qualify to sell beer at their
22 breweries for off-premises consumption; to revise the amount
23 of beer a brewpub may donate to charitable events; to revise
24 definitions; and to provide further for the sale of table
25 wines at retail.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 28-3-1 and 28-3A-14, Code of
2 Alabama 1975, are amended to read as follows:

3 "§28-3-1.

4 "As used in this title, the following words shall
5 have the following meanings unless the context clearly
6 indicates otherwise:

7 "(1) ALCOHOLIC BEVERAGES. Any alcoholic, spirituous,
8 vinous, fermented, or other alcoholic beverage, or combination
9 of liquors and mixed liquor, a part of which is spirituous,
10 vinous, fermented, or otherwise alcoholic, and all drinks or
11 drinkable liquids, preparations or mixtures intended for
12 beverage purposes, which contain one-half of one percent or
13 more of alcohol by volume, and shall include liquor, beer, and
14 wine.

15 "(2) ASSOCIATION. A partnership, limited
16 partnership, or any form of unincorporated enterprise owned by
17 two or more persons.

18 "(3) BEER, or MALT OR BREWED BEVERAGES. ~~Except as~~
19 ~~otherwise provided in this subdivision, any~~ Any beer, lager
20 beer, ale, porter, malt or brewed beverage, or similar
21 fermented ~~malt liquor~~ beverage containing one-half of one
22 percent or more of alcohol by volume and not in excess of
23 thirteen and nine-tenths percent alcohol by volume, ~~by~~
24 ~~whatever name the same may be called~~ brewed or produced from
25 malt, wholly or in part, or from rice, grain of any kind,
26 bran, glucose, sugar, or molasses. A beer or malt or brewed
27 beverage may incorporate honey, fruit, fruit juice, fruit

1 concentrate, herbs, spices, or other flavorings during the
2 fermentation process. The term does not include any product
3 defined as liquor, table wine, or wine.

4 "(4) BOARD. The Alcoholic Beverage Control Board.

5 "(5) BRANDY. All beverages which are an alcoholic
6 distillate from the fermented juice, mash, or wine of fruit,
7 or from the residue thereof, produced in such manner that the
8 distillate possesses the taste, aroma, and characteristics
9 generally attributed to the beverage, as bottled at not less
10 than 80 degree proof.

11 "(6) CARTON. The package or container or containers
12 in which alcoholic beverages are originally packaged for
13 shipment to market by the manufacturer or its designated
14 representatives or the importer.

15 (7) CIDER. A fermented alcoholic beverage made from
16 apple juice and containing not more than 8.5 percent alcohol
17 by volume.

18 "(8) CLUB.

19 "a. Class I. A corporation or association organized
20 or formed in good faith by authority of law and which must
21 have at least 150 paid-up members. It must be the owner,
22 lessee, or occupant of an establishment operated solely for
23 the objects of a national, social, patriotic, political, or
24 athletic nature or the like, but not for pecuniary gain, and
25 the property as well as the advantages of which, belong to all
26 the members and which maintains an establishment provided with
27 special space and accommodations where, in consideration of

1 payment, food with or without lodging is habitually served.
2 The club shall hold regular meetings, continue its business
3 through officers regularly elected, admit members by written
4 application, investigation, and ballot and charge and collect
5 dues from elected members.

6 "b. Class II. A corporation or association organized
7 or formed in good faith by authority of law and which must
8 have at least 100 paid-up members. It must be the owner,
9 lessee, or occupant of an establishment operated solely for
10 the objects of a national, social, patriotic, political, or
11 athletic nature or the like. The club shall hold regular
12 meetings, continue its business through officers regularly
13 elected, admit members by written application, investigation
14 and ballot and charge and collect dues from elected members.

15 "(9) CONTAINER. The single bottle, can, keg, bag, or
16 other receptacle, not a carton, in which alcoholic beverages
17 are originally packaged for the market by the manufacturer or
18 importer and from which the alcoholic beverage is consumed by
19 or dispensed to the public.

20 "(10) CORPORATION. A corporation or joint stock
21 association organized under the laws of this state, the United
22 States, or any other state, territory or foreign country, or
23 dependency.

24 "(11) DRY COUNTY. Any county which by a majority of
25 those voting voted in the negative in an election heretofore
26 held under the applicable statutes at the time of the election
27 or may hereafter vote in the negative in an election or

1 special method referendum hereafter held in accordance with
2 the provisions of Chapter 2 of this title, or held in
3 accordance with the provisions of any act hereafter enacted
4 permitting such election.

5 "(12) DRY MUNICIPALITY. Any municipality within a
6 wet county which has, by its governing body or by a majority
7 of those voting in a municipal election heretofore held in
8 accordance with the provisions of Section 28-2-22, or in a
9 municipal option election heretofore or hereafter held in
10 accordance with the provisions of Act 84-408, Acts of Alabama
11 1984, appearing as Chapter 2A of this title, or any act
12 hereafter enacted permitting municipal option election, voted
13 to exclude the sale of alcoholic beverages within the
14 corporate limits of the municipality.

15 "(13) GENERAL WELFARE PURPOSES.

16 "a. The administration of public assistance as set
17 out in Sections 38-2-5 and 38-4-1;

18 "b. Services, including supplementation and
19 supplementary services under the federal Social Security Act,
20 to or on behalf of persons to whom such public assistance may
21 be given under Sections 38-2-5 and 38-4-1;

22 "c. Service to and on behalf of dependent, neglected
23 or delinquent children; and

24 "d. Investigative and referral services to and on
25 behalf of needy persons.

26 "(14) HEARING COMMISSION. A body appointed by the
27 board to hear and decide all contested license applications

1 and all disciplinary charges against any licensee for
2 violation of this title or the regulations of the board.

3 "(15) HOTEL. A building or buildings held out to the
4 public for housing accommodations of travelers or transients,
5 and shall include motel, but shall not include a rooming house
6 or boarding house.

7 "(16) IMPORTER. Any person, association, or
8 corporation engaged in importing alcoholic beverages, liquor,
9 wine, or beer, manufactured outside of the United States of
10 America into this state or for sale or distribution in this
11 state, or to the board or to a licensee of the board.

12 "(17) KEG. A pressurized factory sealed container
13 with a capacity equal to or greater than five US gallons, from
14 which beer is withdrawn by means of an external tap.

15 "(18) LIQUOR. Any alcoholic, spirituous, vinous,
16 fermented, or other alcoholic beverage, or combination of
17 liquors and mixed liquor, a part of which is spirituous,
18 fermented, vinous or otherwise alcoholic, and all drinks or
19 drinkable liquids, preparations or mixtures intended for
20 beverage purposes, which contain one-half of one percent or
21 more of alcohol by volume, except beer and table wine.

22 "(19) LIQUOR STORE. A liquor store operated by the
23 board, where alcoholic beverages other than beer are
24 authorized to be sold in unopened containers.

25 "(20) MANUFACTURER. Any person, association, or
26 corporation engaged in the producing, bottling, manufacturing,
27 distilling, rectifying, or compounding of alcoholic beverages,

1 liquor, beer, or wine in this state or for sale or
2 distribution in this state or to the board or to a licensee of
3 the board.

4 "(21) MEAD. An alcoholic beverage produced by
5 fermenting a solution of honey and water with grain mash and
6 containing not more than 18 percent alcohol by volume.

7 "(22) MEAL. A diversified selection of food some of
8 which is not susceptible of being consumed in the absence of
9 at least some articles of tableware and which cannot be
10 conveniently consumed while one is standing or walking about.

11 "(23) MINOR. Any person under 21 years of age;
12 provided, however, in the event Section 28-1-5, shall be
13 repealed or otherwise shall be no longer in effect, thereafter
14 the provisions of Section 26-1-1, shall govern.

15 "(24) MUNICIPALITY. Any incorporated city or town of
16 this state to include its police jurisdiction.

17 "(25) PERSON. Every natural person, association, or
18 corporation. Whenever used in a clause prescribing or imposing
19 a fine or imprisonment, or both, such term as applied to
20 association shall mean the partners or members thereof and as
21 applied to corporation shall mean the officers thereof, except
22 as to incorporated clubs the term person shall mean such
23 individual or individuals who, under the bylaws of such clubs,
24 shall have jurisdiction over the possession and sale of liquor
25 therein.

26 "(26) POPULATION. The population according to the
27 last preceding or any subsequent decennial census of the

1 United States, except where a municipality is incorporated
2 subsequent to the last census, in which event, its population
3 until the next decennial census shall be the population of the
4 municipality as determined by the judge of probate of the
5 county as the official population on the date of its
6 incorporation.

7 "(27) RESTAURANT. A reputable place licensed as a
8 restaurant, operated by a responsible person of good
9 reputation and habitually and principally used for the purpose
10 of preparing and serving meals for the public to consume on
11 the premises.

12 "(28) RETAILER. Any person licensed by the board to
13 engage in the retail sale of any alcoholic beverages to the
14 consumer.

15 "(29) SALE or SELL. Any transfer of liquor, wine or
16 beer for a consideration, and any gift in connection with, or
17 as a part of, a transfer of property other than liquor, wine
18 or beer for a consideration.

19 "(30) SELLING PRICE. The total marked-up price of
20 spirituous or vinous liquors sold by the board, exclusive of
21 taxes levied thereon.

22 "(31) TABLE WINE. Except as otherwise provided in
23 this subdivision, any wine containing not more than 24 percent
24 alcohol by volume. Table wine does not include any wine
25 containing more than sixteen and one-half percent alcohol by
26 volume that is made with herbs or flavors, except vermouth, or

1 is an imitation or other than standard wine. Table wine is not
2 liquor, spirituous, or vinous.

3 "(32) UNOPENED CONTAINER. A container containing
4 alcoholic beverages, which has not been opened or unsealed
5 subsequent to filling and sealing by the manufacturer or
6 importer.

7 "(33) WET COUNTY. Any county which by a majority of
8 those voting voted in the affirmative in an election
9 heretofore held in accordance with the statutes applicable at
10 the time of the election or may hereafter vote in the
11 affirmative in an election or special method referendum held
12 in accordance with the provisions of Chapter 2 of this title,
13 or other statutes applicable at the time of the election.

14 "(34) WET MUNICIPALITY. Any municipality in a dry
15 county which by a majority of those voting voted in the
16 affirmative in a municipal option election heretofore or
17 hereafter held in accordance with the provisions of Act
18 84-408, Acts of Alabama 1984, appearing as Chapter 2A of this
19 title, as amended, or any act hereafter enacted permitting
20 municipal option election, or any municipality which became
21 wet by vote of the governing body or by the voters of the
22 municipality heretofore or hereafter held under the special
23 method referendum provisions of Section 28-2-22, or as
24 hereafter provided, where the county has become dry subsequent
25 to the elected wet status of the municipality.

26 "(35) WHOLESALER. Any person licensed by the board
27 to engage in the sale and distribution of table wine and beer,

1 or either of them, within this state, at wholesale only, to be
2 sold by export or to retail licensees or other wholesale
3 licensees or others within this state lawfully authorized to
4 sell table wine and beer, or either of them, for the purpose
5 of resale only.

6 "(36) WINE. All beverages made from the fermentation
7 of fruits, berries, or grapes, with or without added spirits,
8 and produced in accordance with the laws and regulations of
9 the United States, containing not more than 24 percent alcohol
10 by volume, and shall include all sparkling wines, carbonated
11 wines, special natural wines, rectified wines, vermouths,
12 vinous beverages, vinous liquors, and like products, including
13 restored or unrestored pure condensed juice.

14 "§28-3A-14.

15 "Upon applicant's compliance with the provisions of
16 this chapter and the ~~regulations made~~ rules adopted
17 thereunder, the board shall issue to applicant a retail table
18 wine license which will authorize the licensee to purchase
19 table wine from the board or from a licensed wholesaler in
20 counties and municipalities where authorized, and to sell at
21 retail, in unopened original containers, ~~or dispense from~~
22 ~~containers of any size~~ and to sell at retail or to dispense in
23 a container approved by the board, for on-premises consumption
24 in a room or rooms or place on the licensed premises at all
25 times accessible to the use and accommodation of the general
26 public, and in ~~original unopened~~ containers approved by the
27 board for off-premises consumption, where such use of the

1 proposed location is not, at the time of the original
2 application, prohibited by a valid zoning ordinance or other
3 ordinance in the valid exercise of police power by the
4 governing body of the municipality or county in which the
5 outlet is located."

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

8 "§28-3A-6.

9 "(a) Upon the applicant's compliance with this
10 chapter and the rules adopted under this chapter, the board
11 shall issue to the applicant a manufacturer license which
12 ~~shall authorize~~ authorizes the licensee to manufacture or
13 otherwise distill, produce, ferment, brew, bottle, rectify, or
14 compound alcoholic beverages within this state for sale or
15 distribution within this state. No person shall manufacture or
16 otherwise distill, produce, ferment, brew, bottle, rectify, or
17 compound alcoholic beverages within this state or for sale or
18 distribution within this state or to the state, the board, or
19 any licensee of the board, unless the person or the authorized
20 representative of the person shall be granted a manufacturer
21 license issued by the board.

22 "(b) No manufacturer licensee shall sell any
23 alcoholic beverages direct to any retailer or for consumption
24 on the premises where sold except as specified under
25 subsection (h), nor sell or deliver any ~~such~~ alcoholic
26 beverages in other than original containers approved as to
27 capacity by the board and in accordance with standards of fill

1 prescribed by the U.S. Treasury Department, nor maintain or
2 operate within the state any place or places, other than the
3 place or places covered by the manufacturer license, where
4 alcoholic beverages are sold or where orders are taken.

5 "(c) Each manufacturer licensee shall ~~be required to~~
6 file with the board, prior to making any sales in Alabama, a
7 list of its labels to be sold in Alabama and shall file with
8 the board its federal certificate of label approvals or its
9 certificates of exemption as required by the U.S. Treasury
10 Department. All liquors and wines whose labels have not been
11 registered as herein provided for shall be considered
12 contraband and may be seized by the board or its agents, or
13 any peace officer of the State of Alabama without a warrant
14 and the goods shall be delivered to the board and disposed of
15 as provided by law.

16 "(d) All manufacturer licensees shall be required to
17 mail to the board prior to the twentieth day of each month a
18 consolidated report of all shipments of alcoholic beverages
19 made to each wholesaler during the preceding month. ~~Such~~ The
20 reports shall be in ~~such~~ the form and containing ~~such~~
21 information as the board may prescribe.

22 "(e) Every manufacturer shall keep at its principal
23 place of business within the state, daily permanent records
24 ~~which shall~~ that show the quantities of raw materials received
25 and used in the manufacture of alcoholic beverages, and the
26 quantities of alcoholic beverages manufactured and stored, the
27 sale of alcoholic beverages, the quantities of alcoholic

1 beverages stored for hire or transported for hire by or for
2 the licensee, and the names and addresses of the purchasers or
3 other recipients thereof.

4 "(f) Every place licensed as a manufacturer shall be
5 subject to inspection by members of the board or by ~~persons~~
6 ~~duly~~ individuals authorized and designated by the board at any
7 ~~and all times~~ time of the day or night as they may deem
8 necessary, for the detection of violations of this chapter, of
9 any law, or of the rules of the board, or for the purpose of
10 ascertaining the correctness of the records required to be
11 kept by the licensees. The books and records of ~~such~~ licensees
12 shall, at all times, be open to inspection by members of the
13 board, or by ~~persons~~ ~~duly~~ individuals authorized and
14 designated by the board. Members of the board and its ~~duly~~
15 authorized agents, without hindrance, may enter any place that
16 is subject to inspection hereunder or any place where ~~such~~
17 records are kept for the purpose of making ~~such~~ inspections
18 and making transcripts thereof.

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

22 "(h) (1) A manufacturer licensee actively and
23 continuously engaged in the manufacture of alcoholic beverages
24 on the manufacturer's licensed premises in the state may
25 conduct tastings or samplings on the licensed premises, as
26 regulated by the board except as to quantity and hours of
27 operation, or as otherwise provided by ~~statute~~ law, and for

1 that purpose may give away or sell alcoholic beverages
2 manufactured there for consumption on only one premises where
3 manufactured. All alcoholic beverages manufactured and
4 retained on the manufacturer's licensed premises for tasting
5 or sampling shall remain on the premises and be dispensed from
6 a barrel or keg or other original containers.

7 "(2) Notwithstanding subdivision (1), a manufacturer
8 licensee engaged in the manufacture of less than 60,000
9 barrels of beer per year may sell at retail on its licensed
10 premises in the state, for off-premises consumption, beer
11 produced at that licensed premises; provided, however, beer
12 sold for off-premises consumption: May not exceed ~~288~~ 864
13 ounces per customer per day; may not be produced pursuant to a
14 contract with another manufacturer, and shall be sealed,
15 labeled, packaged, and taxed in accordance with state and
16 federal laws and regulations. ~~For purposes of this~~
17 ~~subdivision, beer produced by a parent, subsidiary, or~~
18 ~~affiliate of the licensee, or by a contract brewery,~~
19 ~~regardless of where the beer is produced, shall be included~~
20 ~~for purposes of calculating the 60,000 barrel limit. For the~~
21 purposes of calculation, the 60,000 barrel limit shall include
22 all beer produced by the manufacturer, all beer produced by a
23 parent, subsidiary, or affiliate of the manufacturer, and all
24 beer brewed exclusively for the manufacturer.

25 "(3) A manufacturer licensee engaged in the
26 manufacture of liquor on the manufacturer's licensed premises
27 in the state may sell at retail on its licensed premises, for

1 off-premises consumption, liquor manufactured at that licensed
2 premises; provided, however, liquor sold for off-premises
3 consumption may not exceed ~~2.25~~ 4.5 liters per customer per
4 day and shall be sealed, labeled, packaged, and taxed in
5 accordance with state and federal laws and regulations. The
6 manufacturer licensee shall keep and maintain records for
7 three years of all sales for off-premises consumption.

8 "(4) Notwithstanding subdivision (1), the board may
9 grant a permit allowing a manufacturer licensee engaged in the
10 manufacture of less than 50,000 gallons of table wine per year
11 in the state to establish and operate one additional off-site
12 tasting room to be used to conduct tastings or samplings and
13 to sell at retail the licensee's table wine. The board may
14 also grant a single permit allowing an association
15 representing the majority of wineries and grape growers in the
16 state to establish and operate one off-site tasting room to be
17 used to conduct tastings and samplings and to sell at retail
18 table wines produced by wine manufacturer licensees in the
19 state. An applicant for an off-site tasting room permit shall
20 file a written application with the board in ~~such~~ the form and
21 containing ~~such~~ information as the board may prescribe, along
22 with proof of consent and approval from the appropriate
23 governing authority in which the off-site tasting room is to
24 be located and a filing fee of fifty dollars (\$50). All state
25 and federal laws and regulations applicable to on-site tasting
26 rooms shall apply to an off-site tasting room. Wine sold at an
27 off-site tasting room for off-premises consumption may not

1 exceed one case of wine per customer per day. For purposes of
2 this subdivision, one case of wine means the equivalent of
3 twelve 750-milliliter bottles of wine.

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

1 the tax levied by Section 28-7-18; and as an agent for the
2 state for collection and payment of the tax levied by Sections
3 28-3-200 to 28-3-205, inclusive.

4 "(2) The manufacturer licensee shall keep and
5 maintain all records required to be kept and maintained by
6 manufacturer, wholesaler, and retailer licensees for the tax
7 so levied except that manufacturers are not required to
8 maintain name, address, or other personal demographic
9 information for sales as provided in subsection (e).

10 "(j) A manufacturer licensee engaged in the
11 manufacture of beer in the state may donate and deliver up to
12 31 gallons of the manufacturer's beer to a licensed nonprofit
13 special event operated by or on behalf of a nonprofit
14 organization. Donations shall be taxed in accordance with
15 state and federal laws and regulations. Any beer remaining at
16 the conclusion of the nonprofit event shall be returned to the
17 manufacturer for disposal.

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

26 "§28-4A-3.

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

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

13 "(2) Sell beer brewed on the licensed premises in
14 packaged form at retail for off-premises consumption, provided
15 the beer sold for off-premises consumption may not exceed ~~288~~
16 864 ounces per customer per day and shall be sealed, labeled,
17 packaged, and taxed in accordance with state and federal laws
18 and regulations.

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

23 "(4) Donate and deliver up to ~~two kegs~~ 31 gallons
24 of the licensee's beer to a licensed charitable special event
25 operated by or on behalf of a nonprofit organization;
26 provided, however, donations shall be taxed in accordance with
27 state and federal laws and regulations, and any beer remaining

1 at the conclusion of the charitable event shall be returned to
2 the ~~manufacturer~~ brewpub for disposal.

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

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

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

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

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

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

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

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

13 "(e) Section 28-3-4 and subsection (b) of Section
14 28-3A-6 shall not be applicable with regard to beer brewed by
15 either of the following and sold and dispensed on the brewpub
16 premises:

17 "(1) The brewpub.

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

20 Section 3. Section 1 shall become effective
21 immediately, and Section 2 shall become effective on the first
22 day of the third month following its passage and approval by
23 the Governor, or its otherwise becoming law.