

1 HB151
2 196557-3
3 By Representative Nordgren
4 RFD: Economic Development and Tourism
5 First Read: 19-MAR-19

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8 SYNOPSIS: Under existing law, manufacturers,
9 wholesalers, and retailers of alcoholic beverages
10 are restricted in their ability to have a financial
11 or business interest with one another.

12 This bill would authorize manufacturers,
13 wholesalers, and retailers of alcoholic beverages
14 to enter into certain limited business or financial
15 relationships that comply with federal law.

16 Under existing law, breweries, wineries, and
17 distilleries may operate an on-site tasting room to
18 dispense and sell their own alcoholic beverages.

19 This bill would allow a licensed
20 manufacturer of alcoholic beverages to dispense and
21 sell at its on-site tasting room, alcoholic
22 beverages that are manufactured in this state but
23 not by the manufacturer, so long as the other
24 manufacturer is under common ownership with the
25 brewery, winery, or distillery.

26 This bill would define terms.

1 This bill would further provide for the
2 taxation of beer and liquor.

3 Under existing law, a brewpub may not
4 produce more than 10,000 barrels annually, must be
5 located in a historical building, site, or district
6 or an economically distressed area and must operate
7 a restaurant or otherwise provide food.

8 This bill would remove the requirements that
9 a brewpub be located in a historical or
10 economically distressed area and operate a
11 restaurant or otherwise provide food.

12 This bill would increase the limit on how
13 much beer a brewpub may produce annually.

14 This bill would also allow a manufacturer to
15 enter into alternating proprietorship arrangements
16 with other manufacturers.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 Relating to alcoholic beverages; to amend Sections
23 28-3-1, 28-3-4, 28-3A-6, as last amended by Act 2018-447, 2018
24 Regular Session, 28-4A-3, and 28-4A-4, Code of Alabama 1975;
25 to add Section 28-3-208 to the Code of Alabama 1975; and to
26 repeal Sections 28-4A-2 and 28-4A-6, Code of Alabama 1975,
27 relating to definitions and legislative intent, respectively;

1 to authorize manufacturers, wholesalers, and retailers to
2 enter into certain limited business or financial
3 relationships; to allow a brewery, winery, or distillery to
4 dispense and sell at its on-site tasting room alcoholic
5 beverages transferred from another manufacturer under common
6 ownership with the brewery, winery, or distillery; to provide
7 further for taxation of beer and liquor; to define terms; to
8 delete the requirements that brewpubs be located in certain
9 areas and operate a restaurant or otherwise provide food; to
10 increase the limit on how much beer a brewpub may produce
11 annually; and to provide for alternating proprietorship
12 arrangements among manufacturers.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 28-3-1 and 28-3-4, Code of
15 Alabama 1975, are amended to read as follows:

16 "§28-3-1.

17 "As used in this title, the following words shall
18 have the following meanings unless the context clearly
19 indicates otherwise:

20 "(1) ALCOHOLIC BEVERAGES. Any alcoholic, spirituous,
21 vinous, fermented, or other alcoholic beverage, or combination
22 of liquors and mixed liquor, a part of which is spirituous,
23 vinous, fermented, or otherwise alcoholic, and all drinks or
24 drinkable liquids, preparations or mixtures intended for
25 beverage purposes, which contain one-half of one percent or
26 more of alcohol by volume, and shall include liquor, beer, and
27 wine.

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

4 "(3) BEER, or MALT OR BREWED BEVERAGES. Except as
5 otherwise provided in this subdivision, any beer, lager beer,
6 ale, porter, malt or brewed beverage, or similar fermented
7 malt liquor containing one-half of one percent or more of
8 alcohol by volume and not in excess of thirteen and
9 nine-tenths percent by volume, by whatever name the same may
10 be called.

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

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

18 "(6) BREWPUB. Any premises upon which beer is
19 actively and continuously manufactured or brewed, subject to
20 the barrel production limitation prescribed in Chapter 4A, for
21 consumption on or off the premises where manufactured, or for
22 sale to any designated wholesaler licensee for resale to
23 retail licensees.

24 "(7) BREWERY. A manufacturer of beer.

25 "~~(6)~~ (8) CARTON. The package or container or
26 containers in which alcoholic beverages are originally

1 packaged for shipment to market by the manufacturer or its
2 designated representatives or the importer.

3 "~~(7)~~(9) CIDER. A fermented alcoholic beverage made
4 from apple juice and containing not more than 8.5 percent
5 alcohol by volume.

6 "~~(8)~~(10) CLUB.

7 "a. Class I. A corporation or association organized
8 or formed in good faith by authority of law and which must
9 have at least 150 paid-up members. It must be the owner,
10 lessee, or occupant of an establishment operated solely for
11 the objects of a national, social, patriotic, political, or
12 athletic nature or the like, but not for pecuniary gain, and
13 the property as well as the advantages of which, belong to all
14 the members and which maintains an establishment provided with
15 special space and accommodations where, in consideration of
16 payment, food with or without lodging is habitually served.
17 The club shall hold regular meetings, continue its business
18 through officers regularly elected, admit members by written
19 application, investigation, and ballot and charge and collect
20 dues from elected members.

21 "b. Class II. A corporation or association organized
22 or formed in good faith by authority of law and which must
23 have at least 100 paid-up members. It must be the owner,
24 lessee, or occupant of an establishment operated solely for
25 the objects of a national, social, patriotic, political, or
26 athletic nature or the like. The club shall hold regular
27 meetings, continue its business through officers regularly

1 elected, admit members by written application, investigation
2 and ballot and charge and collect dues from elected members.

3 "(11) COMMON OWNERSHIP. Two manufacturers shall be
4 considered to be under common ownership if a single entity has
5 a majority financial interest in and majority control of both
6 manufacturers.

7 ~~"(9)~~ (12) CONTAINER. The single bottle, can, keg,
8 bag, or other receptacle, not a carton, in which alcoholic
9 beverages are originally packaged for the market by the
10 brewpub, manufacturer, or importer and from which the
11 alcoholic beverage is consumed by or dispensed to the public.

12 ~~"(10)~~ (13) CORPORATION. A corporation or joint stock
13 association organized under the laws of this state, the United
14 States, or any other state, territory or foreign country, or
15 dependency.

16 "(14) DISTILLERY. A manufacturer of liquor.

17 ~~"(11)~~ (15) DRY COUNTY. Any county which by a majority
18 of those voting voted in the negative in an election
19 heretofore held under the applicable statutes at the time of
20 the election or may hereafter vote in the negative in an
21 election or special method referendum hereafter held in
22 accordance with the provisions of Chapter 2 of this title, or
23 held in accordance with the provisions of any act hereafter
24 enacted permitting such election.

25 ~~"(12)~~ (16) DRY MUNICIPALITY. Any municipality within
26 a wet county which has, by its governing body or by a majority
27 of those voting in a municipal election heretofore held in

1 accordance with the provisions of Section 28-2-22, or in a
2 municipal option election heretofore or hereafter held in
3 accordance with the provisions of Act 84-408, Acts of Alabama
4 1984, appearing as Chapter 2A of this title, or any act
5 hereafter enacted permitting municipal option election, voted
6 to exclude the sale of alcoholic beverages within the
7 corporate limits of the municipality.

8 ~~"(13)~~ (17) GENERAL WELFARE PURPOSES.

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

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

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

17 "d. Investigative and referral services to and on
18 behalf of needy persons.

19 ~~"(14)~~ (18) HEARING COMMISSION. A body appointed by
20 the board to hear and decide all contested license
21 applications and all disciplinary charges against any licensee
22 for violation of this title or the regulations of the board.

23 ~~"(15)~~ (19) HOTEL. A building or buildings held out to
24 the public for housing accommodations of travelers or
25 transients, and shall include motel, but shall not include a
26 rooming house or boarding house.

1 "~~(16)~~ (20) IMPORTER. Any person, association, or
2 corporation engaged in importing alcoholic beverages, liquor,
3 wine, or beer, manufactured outside of the United States of
4 America into this state or for sale or distribution in this
5 state, or to the board or to a licensee of the board.

6 "~~(17)~~ (21) KEG. A pressurized factory sealed
7 container with a capacity equal to or greater than five US
8 gallons, from which beer is withdrawn by means of an external
9 tap.

10 "~~(18)~~ (22) LIQUOR. Any alcoholic, spirituous, vinous,
11 fermented, or other alcoholic beverage, or combination of
12 liquors and mixed liquor, a part of which is spirituous,
13 fermented, vinous or otherwise alcoholic, and all drinks or
14 drinkable liquids, preparations or mixtures intended for
15 beverage purposes, which contain one-half of one percent or
16 more of alcohol by volume, except beer and table wine.

17 "~~(19)~~ (23) LIQUOR STORE. A liquor store operated by
18 the board, where alcoholic beverages other than beer are
19 authorized to be sold in unopened containers.

20 "~~(20)~~ (24) MANUFACTURER. Any person, association, or
21 corporation engaged in the producing, bottling, manufacturing,
22 distilling, rectifying, or compounding of alcoholic beverages,
23 liquor, beer, or wine in this state or for sale or
24 distribution in this state or to the board or to a licensee of
25 the board.

1 "~~(21)~~ (25) MEAD. An alcoholic beverage produced by
2 fermenting a solution of honey and water with grain mash and
3 containing not more than 18 percent alcohol by volume.

4 "~~(22)~~ (26) MEAL. A diversified selection of food some
5 of which is not susceptible of being consumed in the absence
6 of at least some articles of tableware and which cannot be
7 conveniently consumed while one is standing or walking about.

8 "~~(23)~~ (27) MINOR. Any person under 21 years of age;
9 provided, however, in the event Section 28-1-5, ~~shall be~~ is
10 repealed or otherwise ~~shall be~~ no longer in effect, thereafter
11 the provisions of Section 26-1-1, ~~shall~~ govern.

12 "~~(24)~~ (28) MUNICIPALITY. Any incorporated city or
13 town of this state to include its police jurisdiction.

14 "~~(25)~~ (29) PERSON. Every natural person, association,
15 or corporation. Whenever used in a clause prescribing or
16 imposing a fine or imprisonment, or both, such term as applied
17 to association shall mean the partners or members thereof and
18 as applied to corporation shall mean the officers thereof,
19 except as to incorporated clubs the term person shall mean
20 such individual or individuals who, under the bylaws of such
21 clubs, shall have jurisdiction over the possession and sale of
22 liquor therein.

23 "~~(26)~~ (30) POPULATION. The population according to
24 the last preceding or any subsequent decennial census of the
25 United States, except where a municipality is incorporated
26 subsequent to the last census, in which event, its population
27 until the next decennial census shall be the population of the

1 municipality as determined by the judge of probate of the
2 county as the official population on the date of its
3 incorporation.

4 "~~(27)~~ (31) RESTAURANT. A reputable place licensed as
5 a restaurant, operated by a responsible person of good
6 reputation and habitually and principally used for the purpose
7 of preparing and serving meals for the public to consume on
8 the premises.

9 "~~(28)~~ (32) RETAILER. Any person licensed by the board
10 to engage in the retail sale of any alcoholic beverages to the
11 consumer.

12 "~~(29)~~ (33) SALE or SELL. Any transfer of liquor, wine
13 or beer for a consideration, and any gift in connection with,
14 or as a part of, a transfer of property other than liquor,
15 wine or beer for a consideration.

16 "~~(30)~~ (34) SELLING PRICE. The total marked-up price
17 of spirituous or vinous liquors sold by the board, exclusive
18 of taxes levied thereon.

19 "(35) SMALL MANUFACTURER. A manufacturer that sells,
20 on an annual basis, no more than 250,000 barrels of beer,
21 100,000 gallons of table wine, or 50,000 proof gallons of
22 liquor, and that is no more than 25 percent owned, directly or
23 indirectly, by a manufacturer that is not itself a small
24 manufacturer.

25 "~~(31)~~ (36) TABLE WINE. Except as otherwise provided
26 in this subdivision, any wine containing not more than 24
27 percent alcohol by volume. Table wine does not include any

1 wine containing more than sixteen and one-half percent alcohol
2 by volume that is made with herbs or flavors, except vermouth,
3 or is an imitation or other than standard wine. Table wine is
4 not liquor, spirituous, or vinous.

5 "~~(32)~~ (37) UNOPENED CONTAINER. A container containing
6 alcoholic beverages, which has not been opened or unsealed
7 subsequent to filling and sealing by the manufacturer or
8 importer.

9 "~~(33)~~ (38) WET COUNTY. Any county which by a majority
10 of those voting voted in the affirmative in an election
11 heretofore held in accordance with the statutes applicable at
12 the time of the election or may hereafter vote in the
13 affirmative in an election or special method referendum held
14 in accordance with the provisions of Chapter 2 of this title,
15 or other statutes applicable at the time of the election.

16 "~~(34)~~ (39) WET MUNICIPALITY. Any municipality in a
17 dry county which by a majority of those voting voted in the
18 affirmative in a municipal option election heretofore or
19 hereafter held in accordance with the provisions of Act
20 84-408, Acts of Alabama 1984, appearing as Chapter 2A of this
21 title, as amended, or any act hereafter enacted permitting
22 municipal option election, or any municipality which became
23 wet by vote of the governing body or by the voters of the
24 municipality heretofore or hereafter held under the special
25 method referendum provisions of Section 28-2-22, or as
26 hereafter provided, where the county has become dry subsequent
27 to the elected wet status of the municipality.

1 "~~(35)~~(40) WHOLESALER. Any person licensed by the
2 board to engage in the sale and distribution of table wine and
3 beer, or either of them, within this state, at wholesale only,
4 to be sold by export or to retail licensees or other wholesale
5 licensees or others within this state lawfully authorized to
6 sell table wine and beer, or either of them, for the purpose
7 of resale only.

8 "~~(36)~~(41) WINE. All beverages made from the
9 fermentation of fruits, berries, or grapes, with or without
10 added spirits, and produced in accordance with the laws and
11 regulations of the United States, containing not more than 24
12 percent alcohol by volume, and shall include all sparkling
13 wines, carbonated wines, special natural wines, rectified
14 wines, vermouths, vinous beverages, vinous liquors, and like
15 products, including restored or unrestored pure condensed
16 juice.

17 "(42) WINERY. A manufacturer of table wine.

18 "§28-3-4.

19 (a) No manufacturer and no officer or director of
20 any manufacturer shall at the same time be a distributor,
21 wholesaler or ~~retail dispenser~~ retailer or an officer,
22 director or stockholder or creditor of any distributor,
23 wholesaler or ~~retail dispenser~~ retailer, nor, except as
24 provided in this section, be the owner, proprietor or lessor
25 of any place covered directly or indirectly by any
26 distributor's or wholesaler's ~~malt or brewed beverage liquor~~
27 license.

1 (b) No distributor or wholesaler and no officer or
2 director of any distributor or wholesaler shall at the same
3 time be a manufacturer or retailer or be an officer, director,
4 stockholder or creditor of a manufacturer or retailer or be
5 the owner, proprietor or lessor of any place covered by any
6 other ~~malt or brewed beverage or liquor~~ license.

7 (c) No licensee ~~licensed under this chapter~~ shall
8 directly or indirectly own any stock of, or have any financial
9 interest in, any other class of business licensed under this
10 chapter.

11 (d) Except as provided in this section, no
12 manufacturer, wholesaler or distributor shall in any ~~wise~~
13 manner be interested, either directly or indirectly, in the
14 ownership or leasehold of any property or in any mortgage
15 against the same for which a ~~liquor or retail dispensers'~~
16 retail license is granted, nor shall a manufacturer,
17 wholesaler or distributor, either directly or indirectly, lend
18 any moneys, credit or equivalent thereof to any retailer in
19 equipping, fitting out or maintaining and conducting, either
20 in whole or in part, an establishment or business operated
21 under a ~~liquor retail dispensers'~~ retail license, excepting
22 only the usual and customary credits allowed for returning
23 packages or containers in which ~~malt or brewed~~ alcoholic
24 beverages were packed for market by the manufacturer.

25 (e) Except as provided in this section no
26 manufacturer shall in any ~~wise~~ manner be interested, directly
27 or indirectly, in the ownership or leasehold of any property

1 or any mortgage lien against the same, for which a
2 distributor's or wholesaler's license is granted nor shall a
3 manufacturer, either directly or indirectly, lend any moneys,
4 credit or their equivalent to any distributor or wholesaler in
5 equipping, fitting out or maintaining and conducting, either
6 in whole or in part, an establishment or business where ~~malt~~
7 ~~or brewed~~ alcoholic beverages are licensed for sale by a
8 distributor or wholesaler, excepting only the usual credits
9 allowed for the return of packages or containers in which ~~malt~~
10 ~~or brewed~~ alcoholic beverages were originally packed for the
11 market by the manufacturer.

12 "(f) No distributor, wholesaler, or ~~retail dispenser~~
13 retailer shall in any ~~wise~~ manner, either directly or
14 indirectly, receive any credit, loan, moneys or the equivalent
15 thereof from any other licensee or from or through a
16 subsidiary or affiliate of another licensee or from any firm,
17 association, or corporation, except a banking institution, in
18 which another licensee or any officer, director, or firm
19 member of another licensee has a substantial interest or
20 exercises a control of its business policy for equipping,
21 fitting out, payment of license fee, or maintaining and
22 conducting, either in whole or in part, an establishment or
23 business operated under a distributor's, wholesaler's, or
24 ~~retail dispenser's~~ retailer's license, excepting only the
25 usual and customary credits allowed for the return of packages
26 or containers in which ~~malt or brewed~~ alcoholic beverages were
27 packed for the market by the manufacturer.

1 "(g) The purpose of this section is to require a
2 separation of the financial and business interest between the
3 various classes of business regulated by this chapter, and no
4 person or corporation shall by any device whatsoever directly
5 or indirectly, evade the provisions of this section.

6 "(h) Notwithstanding the foregoing, this section
7 does not prohibit the following financial or business
8 interests:

9 "(1) An agreement between a manufacturer and
10 retailer made in compliance with federal laws or regulations,
11 including, but not limited to, an agreement authorizing the
12 branding of a retailer's premises, provided no money, credit,
13 or equivalent is paid or provided by the manufacturer to the
14 retailer, and further provided that all costs of equipping,
15 fitting out, maintaining, and conducting the retailer's
16 licensed establishment are paid by the retailer.

17 "(2) A manufacturer, importer, or wholesaler from
18 being a member, donor, director, or officer of a nonprofit
19 organization exempt from taxation under Section 501 of the
20 Internal Revenue Code that holds a retail class license,
21 regardless of the organization's purpose."

22 Section 2. Section 28-3-208 is added to the Code of
23 Alabama 1975, to read as follows:

24 §28-3-208.

25 (a) Liquor sold directly at retail by a manufacturer
26 at the licensed premises, as provided in Section 28-3A-6, is

1 exempt from the taxes specified in Sections 28-3-200 to
2 28-3-205, inclusive.

3 (b) There is levied and shall be collected, on
4 liquor sold directly at retail by a manufacturer at the
5 licensed premises, as provided in Section 28-3A-6, a tax at
6 the rate of four dollars (\$4) per liter. The tax imposed shall
7 be assessed by the board on the manufacturer at the time the
8 liquor is allocated for the purpose of retail sale before
9 being dispensed for consumption.

10 (c) All revenues collected under this section shall
11 be paid into the State Treasury to the credit of the General
12 Fund.

13 Section 3. Sections 28-3A-6, as last amended by Act
14 2018-447, 2018 Regular Session, 28-4A-3, and 28-4A-4, Code of
15 Alabama 1975, are amended to read as follows:

16 "§28-3A-6.

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

1 such person or the authorized representative of the person
2 shall be granted a manufacturer license issued by the board.

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

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

25 "(d) ~~All such manufacturer licensees shall be~~
26 ~~required to~~ Each licensee shall mail to the board,
27 the twentieth day of each month, a consolidated report of all

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

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

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

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

5 "(h) (1) A manufacturer licensee actively and
6 continuously engaged in the manufacture of alcoholic beverages
7 on the manufacturer's licensed premises in the state may
8 conduct tastings or samplings on the licensed premises, as
9 regulated by the board except as to quantity and hours of
10 operation, or as otherwise provided by statute, and for that
11 purpose give away or sell alcoholic beverages manufactured
12 there or otherwise manufactured in this state and transferred
13 to the licensed premises directly from another manufacturer
14 that is under common ownership, for consumption on only one
15 premises where manufactured. All alcoholic beverages
16 manufactured and retained on the manufacturer's licensed
17 premises for tasting or sampling shall remain on the premises
18 and be dispensed from a barrel or keg or other original
19 containers. For purposes of this subsection, the amount of
20 beer directly transferred to a manufacturer for tastings,
21 samplings, or retail sale may not exceed the amount of beer
22 manufactured at the receiving manufacturer in a calendar year.

23 "(2) Notwithstanding subdivision (1), a small
24 manufacturer licensee ~~engaged in the manufacture of less than~~
25 ~~60,000 barrels~~ of beer ~~per year~~ may sell at retail on its
26 licensed premises in the state, for off-premises consumption,
27 beer produced at that licensed premises or otherwise

1 manufactured in this state and transferred to the licensed
2 premises directly from another manufacturer that is under
3 common ownership; provided, however, beer sold for
4 off-premises consumption: ~~May~~ may not exceed ~~288~~ 1,984 ounces
5 per customer per day; ~~may not be produced pursuant to a~~
6 ~~contract with another manufacturer; and shall~~ and must be
7 sealed, labeled, packaged, and taxed in accordance with state
8 and federal laws, rules, and regulations. ~~For purposes of this~~
9 ~~subdivision, beer produced by a parent, subsidiary, or~~
10 ~~affiliate of the licensee, or by a contract brewery,~~
11 ~~regardless of where the beer is produced, shall be included~~
12 ~~for purposes of calculating the 60,000 barrel limit.~~

13 "(3) A manufacturer licensee engaged in the
14 manufacture of liquor on the manufacturer's licensed premises
15 in the state may sell at retail on its licensed premises, for
16 off-premises consumption, liquor manufactured at that licensed
17 premises or otherwise manufactured in this state and
18 transferred to the licensed premises directly from another
19 manufacturer that is under common ownership; provided,
20 however, liquor sold for off-premises consumption may not
21 exceed ~~2.25~~ 4.5 liters per customer per day and ~~shall~~ must be
22 sealed, labeled, packaged, and taxed in accordance with state
23 and federal laws and regulations. The manufacturer licensee
24 shall keep and maintain records for three years of all sales
25 for off-premises consumption.

26 "(4) Notwithstanding subdivision (1), the board may
27 grant a permit allowing a manufacturer licensee engaged in the

1 manufacture of less than 50,000 gallons of table wine per year
2 in the state to establish and operate one additional off-site
3 tasting room to be used to conduct tastings or samplings and
4 to sell at retail the licensee's table wine. The board may
5 also grant a single permit allowing an association
6 representing the majority of wineries and grape growers in the
7 state to establish and operate one off-site tasting room to be
8 used to conduct tastings and samplings and to sell at retail
9 table wines produced by wine manufacturer licensees in the
10 state. An applicant for an off-site tasting room permit shall
11 file a written application with the board in such form and
12 containing such information as the board may prescribe, along
13 with proof of consent and approval from the appropriate
14 governing authority in which the off-site tasting room is to
15 be located and a filing fee of fifty dollars (\$50). All state
16 and federal laws and regulations applicable to on-site tasting
17 rooms shall apply to an off-site tasting room. Wine sold at an
18 off-site tasting room for off-premises consumption may not
19 exceed one case of wine per customer per day. For purposes of
20 this subdivision, one case of wine means the equivalent of
21 twelve 750-milliliter bottles of wine.

22 "(5) A manufacturer shall not be required to destroy
23 empty bottles or other packaging used by the manufacturer for
24 retail sales under this subsection.

25 "(6) This subsection does not prohibit manufacturers
26 from serving beer at retail from bulk tanks, provided a

1 manufacturer of beer is responsible for all taxes on beer
2 served from a bulk serving tank.

3 "(i) (1) In addition to the licenses provided for by
4 Chapter 3A of this title, and any county or municipal license,
5 there is levied on the manufacturer of the alcoholic beverages
6 dispensed on the premises or at an authorized off-site tasting
7 room the privilege or excise tax imposed on beer by Sections
8 28-3-184 and 28-3-190; ~~and~~ imposed on table wine by Section
9 28-7-18; and imposed on liquor by ~~Sections 28-3-200 to~~
10 ~~28-3-205, inclusive.~~ Section 28-3-208. Taxes on beer shall be
11 levied at the time the beer is allocated by the beer
12 manufacturer for the purpose of retail sale before being
13 dispensed for consumption. Every manufacturer licensee shall
14 file the tax returns, pay the taxes, and perform all
15 obligations imposed on wholesalers at the times and places set
16 forth therein. It shall be unlawful for any manufacturer
17 licensee who is required to pay the taxes so imposed in the
18 first instance to fail or refuse to add to the sale price and
19 collect from the purchaser the required amount of tax, it
20 being the intent and purpose of this provision that each of
21 the taxes levied is in fact a tax on the consumer, ~~with the~~
22 ~~manufacturer licensee who pays the tax in the first instance~~
23 ~~acting merely as an agent of the state for the collection and~~
24 ~~payment of the tax levied by Section 28-3-184; as an agent for~~
25 ~~the county or municipality for the collection and payment of~~
26 ~~the tax levied by Section 28-3-190; as an agent for the county~~
27 ~~or municipality for collection and payment of the tax levied~~

1 by ~~Section 28-7-18~~; and as an agent for the state for
2 collection and payment of the tax levied by Sections ~~28-3-200~~
3 ~~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 (h).

10 "(j) A small 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 small 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 "(l) A manufacturer may store, on the licensed
27 premises, alcoholic beverages purchased or received from

1 outside the premises, provided the alcoholic beverages may not
2 be made available to the public unless otherwise provided by
3 law.

4 "(m) This section does not limit or prohibit
5 alternating proprietorships, as authorized under federal law,
6 in which the holder of a manufacturer license leases or
7 otherwise makes available its facility to another holder of a
8 manufacturer license. In this arrangement, the tenant
9 manufacturer shall maintain title to the alcoholic beverage at
10 all stages of the manufacturing process and shall be
11 responsible for all aspects associated with manufacturing the
12 product, including maintaining appropriate records, obtaining
13 label approval in its own name, and remitting the appropriate
14 taxes.

15 "§28-4A-3.

16 "(a) In addition to the licenses authorized to be
17 issued and renewed by the board pursuant to the Alcoholic
18 Beverage Licensing Code codified as Chapter 3A of this title,
19 the board, upon applicant's compliance with the provisions of
20 this chapter and with Chapter 3A and the regulations made
21 thereunder, is authorized to issue to a qualified applicant a
22 brewpub license which shall authorize the licensee to
23 manufacture or brew beer, in a quantity not to exceed ~~10,000~~
24 25,000 barrels in any one year and to sell beer brewed on the
25 licensed premises in unpackaged form at retail for on-premises
26 consumption at the licensed premises only; to sell beer brewed
27 on the licensed premises in packaged form at retail for

1 off-premises consumption, provided the beer sold for
2 off-premises consumption may not exceed ~~200~~ 1,984 ounces per
3 customer per day and ~~shall~~ must be sealed, labeled, packaged,
4 and taxed in accordance with state and federal laws and
5 regulations; to sell beer brewed on the premises in original,
6 unopened barrel or keg containers to any licensed wholesaler
7 designated by a brewpub licensee pursuant to Sections 28-8-2
8 and 28-9-3 for resale to retail licensees; to donate and
9 deliver up to ~~two kegs~~ 31 gallons of the licensee's beer to a
10 licensed ~~charitable~~ nonprofit special event operated by or on
11 behalf of a nonprofit organization; provided, however,
12 donations shall be taxed in accordance with state and federal
13 laws and regulations, and any beer remaining at the conclusion
14 of the ~~charitable~~ event shall be returned to the manufacturer
15 for disposal; and to purchase beer, including draft or keg
16 beer, in original, unopened containers from licensed
17 wholesalers and to sell such beer at retail for on-premises
18 consumption only, in a room or rooms or place on the licensed
19 premises at all times accessible to the use and accommodation
20 of the general public, subject to the following conditions:

21 "(1) 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 "(2) Beer brewed by the brewpub licensee shall be
27 packaged or contained in barrels or other original containers

1 from which the beer is to be dispensed only on the premises
2 where brewed for consumption on or off the premises or sold in
3 original, unopened barrel or keg containers to any designated
4 wholesaler licensee for resale to retailer licensees.

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

8 ~~"(4)~~ (3) The brewpub may not sell any alcoholic
9 beverages if it is not actively and continuously engaged in
10 the manufacture or brewing of alcoholic beverages on the
11 brewpub's licensed premises.

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

15 "(c) Except as provided in this subsection, the
16 provisions of this title shall be applicable. The provisions
17 of Section 28-3-4 and subsection (b) of Section 28-3A-6, shall
18 not be applicable with regard to beer brewed by the brewpub
19 and sold and dispensed on the brewpub premises. In all other
20 respects, Section 28-3-4, Section 28-3A-6(b), and Section
21 28-3A-6(i) (2) shall be applicable.

22 "§28-4A-4.

23 "(a) In addition to the licenses provided for by
24 this chapter and any county or municipal license, there is
25 levied on the brewpub for on-premises sales of beer brewed by
26 the brewpub licensee the privilege or excise taxes imposed by
27 Sections 28-3-184 and 28-3-190. Every brewpub licensee shall

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

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

20 "~~(c) The brewpub shall appoint a licensed wholesaler~~
21 ~~designee in order to preserve Section 28-9-1. In addition, for~~
22 For on-premises sales of beer brewed by the brewpub licensee,
23 the brewpub shall be exempt from Sections 28-9-3 through
24 28-9-11.

25 "(d) A small manufacturer may have a financial
26 interest in a brewpub, including a brewpub that has additional
27 retail-class licenses; provided, however, that this subsection

1 does not allow a manufacturer to have a financial interest
2 with any other licensed retail-class establishment. A small
3 manufacturer that has a financial interest in a brewpub may
4 not transfer alcoholic beverages directly from the
5 manufacturer to the brewpub; however, the brewpub may purchase
6 alcoholic beverages from an authorized wholesaler, or as
7 otherwise provided by law.

8 "(e) A brewpub may serve beer at retail from bulk
9 tanks, provided a brewpub is responsible for all taxes on beer
10 served from a bulk serving tank."

11 Section 4. Section 28-4A-2, Code of Alabama 1975,
12 providing definitions, and Section 28-4A-6, Code of Alabama
13 1975, providing legislative findings, are repealed.

14 Section 5. This act shall become effective on the
15 first day of the third month following its passage and
16 approval by the Governor, or its otherwise becoming law.