

1 HB414
2 191461-3
3 By Representative Ford
4 RFD: Economic Development and Tourism
5 First Read: 13-FEB-18

1
2 ENROLLED, An Act,

3 Relating to the sale of alcoholic beverages; to
4 provide for the issuance of a nonprofit special events retail
5 license for the sale of beer, wine, and liquor; to authorize
6 the donation of distilled beer, wine, and liquor by
7 nonlicensed persons; and to amend Section 28-3A-6, Code of
8 Alabama 1975, as last amended by Act 2017-404, 2017 Regular
9 Session, relating to donations of alcoholic beverages to
10 charitable events, to provide that a manufacturer licensee of
11 beer or wine may donate its product to a licensed nonprofit
12 special event operated by a nonprofit organization.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Definitions.

15 As used in Sections 1 through 9, the following words
16 shall have the following meanings:

17 (1) NONPROFIT SPECIAL EVENTS RETAIL LICENSE. A
18 license issued pursuant to Section 2 for the sale of beer,
19 wine, or liquor.

20 (2) QUALIFYING ORGANIZATION. A bona fide nonprofit
21 organization operating in the state that satisfies all of the
22 following requirements:

23 a. Operates without profit to the organization's
24 members.

1 b. Is exempt from taxation under Section 501 of the
2 Internal Revenue Code.

3 c. Satisfies at least one of the following
4 requirements:

5 1. Has been continuously in existence in the state
6 for a minimum of three years.

7 2. Is affiliated with a parent organization that has
8 been in existence in the state for a minimum of three years.

9 3. Has reorganized and is continuing its mission
10 under a new name on file with the Secretary of State and with
11 a new tax identification number after having satisfied the
12 requirements set forth in either subparagraph 1. or 2.

13 **Section 2. Licensed authorized.**

14 The board may issue a Nonprofit Special Events
15 Retail License for the sale of beer, wine, and liquor to a
16 qualifying organization.

17 Section 3. Applications for Nonprofit Special Events
18 Retail License.

19 (a) Applications for a Nonprofit Special Events
20 Retail License shall be made with the board at least 25
21 calendar days prior to the event on forms provided by the
22 board and shall be verified by oath or affirmation of an
23 officer or director of the qualifying organization who is
24 authorized to do so.

1 (b) The applicant shall provide the Alcoholic
2 Beverage Control Board all of the following:

3 (1) Documentation to show that the nonprofit is a
4 qualifying organization.

5 (2) A notarized, signed statement of proper
6 authority from the person signing the application.

7 (3) Date, time, and address of the event location.
8 The applicant may also include an alternate event date or
9 location.

10 (4) Documentation of authority for use of property
11 for the requested event.

12 (5) Copy of letter notifying the local governing
13 officials of the event.

14 (c) A qualifying organization that applies for a
15 Nonprofit Special Events Retail License shall not be required
16 to provide evidence of liquor liability insurance.

17 (d) The board may request additional documentation
18 at its discretion.

19 (e) Nonprofit Special Event Retail Licenses are not
20 renewable and are valid for a period not to exceed seven days,
21 and are issued upon terms and conditions as the board may
22 prescribe.

23 Section 4. Donated alcohol.

24 Beer, wine, and liquor may be donated by a
25 nonlicensed person.

1 Section 5. Rulemaking authority.

2 The board may adopt rules necessary for the
3 implementation and administration of this act.

4 Section 6. Section 28-3A-6, Code of Alabama 1975, as
5 last amended by Act 2017-404 of the 2017 Regular Session, is
6 amended to read as follows:

7 "§28-3A-6.

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

21 "(b) No manufacturer licensee shall sell any
22 alcoholic beverages direct to any retailer or for consumption
23 on the premises where sold except as specified under
24 subsection (h), nor sell or deliver any such alcoholic
25 beverages in other than original containers approved as to

1 capacity by the board and in accordance with standards of fill
2 prescribed by the U. S. Treasury Department, nor maintain or
3 operate within the state any place or places, other than the
4 place or places covered by the manufacturer license, where
5 alcoholic beverages are sold or where orders are taken.

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

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

23 "(e) Every manufacturer shall keep at its principal
24 place of business within the state, daily permanent records
25 which shall show the quantities of raw materials received and

1 used in the manufacture of alcoholic beverages, and the
2 quantities of alcoholic beverages manufactured and stored, the
3 sale of alcoholic beverages, the quantities of alcoholic
4 beverages stored for hire or transported for hire by or for
5 the licensee and the names and addresses of the purchasers or
6 other recipients thereof.

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

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

1 "(h) (1) A manufacturer licensee actively and
2 continuously engaged in the manufacture of alcoholic beverages
3 on the manufacturer's licensed premises in the state may
4 conduct tastings or samplings on the licensed premises, as
5 regulated by the ABC Board except as to quantity and hours of
6 operation, or as otherwise provided by statute, and for that
7 purpose give away or sell alcoholic beverages manufactured
8 there for consumption on only one premises where manufactured.

9 "All alcoholic beverages manufactured and retained
10 on the manufacturer's licensed premises for tasting or
11 sampling shall remain on the premises and be dispensed from a
12 barrel or keg or other original containers.

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

1 regardless of where the beer is produced, shall be included
2 for purposes of calculating the 60,000 barrel limit.

3 "(3) A manufacturer licensee engaged in the
4 manufacture of liquor on the manufacturer's licensed premises
5 in the state may sell at retail on its licensed premises, for
6 off-premises consumption, liquor manufactured at that licensed
7 premises; provided, however, liquor sold for off-premises
8 consumption may not exceed 750 milliliters per customer per
9 day and shall be sealed, labeled, packaged, and taxed in
10 accordance with state and federal laws and regulations. The
11 manufacturer licensee shall keep and maintain records for
12 three years of all sales for off-premises consumption.

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

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

11 "(i) (1) In addition to the licenses provided for by
12 Chapter 3A of this title, and any county or municipal license,
13 there is levied on the manufacturer of the alcoholic beverages
14 dispensed on the premises the privilege or excise tax imposed
15 on beer by Sections 28-3-184 and 28-3-190; and imposed on
16 table wine by Section 28-7-18; and imposed on liquor by
17 Sections 28-3-200 to 28-3-205, inclusive. Every manufacturer
18 licensee shall file the tax returns, pay the taxes, and
19 perform all obligations imposed on wholesalers at the times
20 and places set forth therein. It shall be unlawful for any
21 manufacturer licensee who is required to pay the taxes so
22 imposed in the first instance to fail or refuse to add to the
23 sale price and collect from the purchaser the required amount
24 of tax, it being the intent and purpose of this provision that
25 each of the taxes levied is in fact a tax on the consumer,

1 with the manufacturer licensee who pays the tax in the first
2 instance acting merely as an agent of the state for the
3 collection and payment of the tax levied by Section 28-3-184;
4 as an agent for the county or municipality for the collection
5 and payment of the tax levied by Section 28-3-190; as an agent
6 for the county or municipality for collection and payment of
7 the tax levied by Section 28-7-18; and as an agent for the
8 state for collection and payment of the tax levied by Sections
9 28-3-200 to 28-3-205, inclusive.

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

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

24 "(k) A manufacturer licensee engaged in the
25 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 ~~charitable~~ nonprofit special event operated by or on behalf of
3 a nonprofit organization. Donations shall be taxed in
4 accordance with state and federal laws and regulations. Any
5 table wine remaining at the conclusion of the ~~charitable~~
6 nonprofit event shall be returned to the manufacturer for
7 disposal."

8 Section 7. This act shall become effective on the
9 first day of the third month following its passage and
10 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 08-MAR-18.

Jeff Woodard
Clerk

Senate

20-MAR-18

Passed