

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

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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

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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

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20-MAR-18

Passed