

1 SB389
2 213181-1
3 By Senator Beasley
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 13-APR-21

SYNOPSIS: Under existing law, at its premises for off-premises consumption, a licensed distillery may sell at retail up to 2.25 liters of liquor per customer per day.

This bill would allow a distillery to sell up to 4.5 liters of liquor per customer per day for off premises consumption.

A BILL
TO BE ENTITLED
AN ACT

Relating to alcoholic beverages; to amend Section 28-3A-6, Code of Alabama 1975, to revise the daily limit on how much liquor may be sold by certain distilleries to customers for off-premises consumption.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 28-3A-6, Code of Alabama 1975, is amended to read as follows:

"§28-3A-6.

1 "(a) Upon the applicant's compliance with this
2 chapter and the rules adopted under this chapter, the board
3 shall issue to the applicant a manufacturer license which
4 ~~shall authorize~~ authorizes the licensee to manufacture or
5 otherwise distill, produce, ferment, brew, bottle, rectify, or
6 compound alcoholic beverages within this state for sale or
7 distribution within this state. No person shall manufacture or
8 otherwise distill, produce, ferment, brew, bottle, rectify, or
9 compound alcoholic beverages within this state or for sale or
10 distribution within this state or to the state, the board, or
11 any licensee of the board, unless the person or the authorized
12 representative of the person shall be granted a manufacturer
13 license issued by the board.

14 "(b) No manufacturer licensee shall sell any
15 alcoholic beverages direct to any retailer or for consumption
16 on the premises where sold except as specified under
17 subsection (h), nor sell or deliver any ~~such~~ alcoholic
18 beverages in other than original containers approved as to
19 capacity by the board and in accordance with standards of fill
20 prescribed by the U.S. Treasury Department, nor maintain or
21 operate within the state any place or places, other than the
22 place or places covered by the manufacturer license, where
23 alcoholic beverages are sold or where orders are taken.

24 "(c) Each manufacturer licensee shall ~~be required to~~
25 file with the board, prior to making any sales in Alabama, a
26 list of its labels to be sold in Alabama and shall file with
27 the board its federal certificate of label approvals or its

1 certificates of exemption as required by the U.S. Treasury
2 Department. All liquors and wines whose labels have not been
3 registered as herein provided for shall be considered
4 contraband and may be seized by the board or its agents, or
5 any peace officer of the State of Alabama without a warrant
6 and the goods shall be delivered to the board and disposed of
7 as provided by law.

8 "(d) All manufacturer licensees shall be required to
9 mail to the board prior to the twentieth day of each month a
10 consolidated report of all shipments of alcoholic beverages
11 made to each wholesaler during the preceding month. ~~Such~~ The
12 reports shall be in ~~such~~ the form and containing ~~such~~
13 information as the board may prescribe.

14 "(e) Every manufacturer shall keep at its principal
15 place of business within the state, daily permanent records
16 ~~which shall~~ that show the quantities of raw materials received
17 and used in the manufacture of alcoholic beverages, and the
18 quantities of alcoholic beverages manufactured and stored, the
19 sale of alcoholic beverages, the quantities of alcoholic
20 beverages stored for hire or transported for hire by or for
21 the licensee, and the names and addresses of the purchasers or
22 other recipients thereof.

23 "(f) Every place licensed as a manufacturer shall be
24 subject to inspection by members of the board or by ~~persons~~
25 ~~duly~~ individuals authorized and designated by the board at any
26 ~~and all times~~ time of the day or night as they may deem
27 necessary, for the detection of violations of this chapter, of

1 any law, or of the rules of the board, or for the purpose of
2 ascertaining the correctness of the records required to be
3 kept by the licensees. The books and records of ~~such~~ licensees
4 shall, at all times, be open to inspection by members of the
5 board, or by ~~persons~~ duly individuals authorized and
6 designated by the board. Members of the board and its ~~duly~~
7 authorized agents, without hindrance, may enter any place that
8 is subject to inspection hereunder or any place where ~~such~~
9 records are kept for the purpose of making ~~such~~ inspections
10 and making transcripts thereof.

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

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

26 "(2) Notwithstanding subdivision (1), a manufacturer
27 licensee engaged in the manufacture of less than 60,000

1 barrels of beer per year may sell at retail on its licensed
2 premises in the state, for off-premises consumption, beer
3 produced at that licensed premises; provided, however, beer
4 sold for off-premises consumption: May not exceed 288 ounces
5 per customer per day; may not be produced pursuant to a
6 contract with another manufacturer, and shall be sealed,
7 labeled, packaged, and taxed in accordance with state and
8 federal laws 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; provided, however, liquor sold for off-premises
18 consumption may not exceed ~~2.25~~ 4.5 liters per customer per
19 day and shall be sealed, labeled, packaged, and taxed in
20 accordance with state and federal laws and regulations. The
21 manufacturer licensee shall keep and maintain records for
22 three years of all sales for off-premises consumption.

23 "(4) Notwithstanding subdivision (1), the board may
24 grant a permit allowing a manufacturer licensee engaged in the
25 manufacture of less than 50,000 gallons of table wine per year
26 in the state to establish and operate one additional off-site
27 tasting room to be used to conduct tastings or samplings and

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

19 "(i) (1) In addition to the licenses provided for by
20 this chapter, and any county or municipal license, there is
21 levied on the manufacturer of the alcoholic beverages
22 dispensed on the premises the privilege or excise tax imposed
23 on beer by Sections 28-3-184 and 28-3-190; and imposed on
24 table wine by Section 28-7-18; and imposed on liquor by
25 Sections 28-3-200 to 28-3-205, inclusive. Taxes on beer shall
26 be levied at the time the beer is allocated by the beer
27 manufacturer for the purpose of retail sale and not at the

1 time the beer is dispensed for consumption. Every manufacturer
2 licensee shall file the tax returns, pay the taxes, and
3 perform all obligations imposed on wholesalers at the times
4 and places set forth therein. It shall be unlawful for any
5 manufacturer licensee who is required to pay the taxes so
6 imposed in the first instance to fail or refuse to add to the
7 sale price and collect from the purchaser the required amount
8 of tax, it being the intent and purpose of this provision that
9 each of the taxes levied is in fact a tax on the consumer,
10 with the manufacturer licensee who pays the tax in the first
11 instance acting merely as an agent of the state for the
12 collection and payment of the tax levied by Section 28-3-184;
13 as an agent for the county or municipality for the collection
14 and payment of the tax levied by Section 28-3-190; as an agent
15 for the county or municipality for collection and payment of
16 the tax levied by Section 28-7-18; and as an agent for the
17 state for collection and payment of the tax levied by Sections
18 28-3-200 to 28-3-205, inclusive.

19 "(2) The manufacturer licensee shall keep and
20 maintain all records required to be kept and maintained by
21 manufacturer, wholesaler, and retailer licensees for the tax
22 so levied except that manufacturers are not required to
23 maintain name, address, or other personal demographic
24 information for sales as provided in subsection (e).

25 "(j) A manufacturer licensee engaged in the
26 manufacture of beer in the state may donate and deliver up to
27 31 gallons of the manufacturer's beer to a licensed nonprofit

1 special event operated by or on behalf of a nonprofit
2 organization. Donations shall be taxed in accordance with
3 state and federal laws and regulations. Any beer remaining at
4 the conclusion of the nonprofit event shall be returned to the
5 manufacturer for disposal.

6 "(k) A manufacturer licensee engaged in the
7 manufacture of table wine in the state may donate and deliver
8 up to two cases of the manufacturer's table wine to a licensed
9 nonprofit special event operated by or on behalf of a
10 nonprofit organization. Donations shall be taxed in accordance
11 with state and federal laws and regulations. Any table wine
12 remaining at the conclusion of the nonprofit event shall be
13 returned to the manufacturer for disposal."

14 Section 2. 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.