

1 HB111
2 187962-3
3 By Representative Ford
4 RFD: Economic Development and Tourism
5 First Read: 09-JAN-18

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8 SYNOPSIS: Existing law provides for a special events
9 retail license for the sale of beer, wine, and
10 liquor.

11 This bill would provide for the issuance of
12 a nonprofit special events retail license for the
13 sale of beer, wine, and liquor; specify who may
14 receive the license; establish fees for the
15 license; provide for a procedure to protest
16 issuance of the license; and provide for an
17 alternate event date or location.

18 This bill would specify that an organization
19 that otherwise qualifies for a nonprofit special
20 events retail license may serve alcoholic beverages
21 without a license as long as no alcoholic beverages
22 are sold by the drink and any fee or cost of
23 admission to the event is uniform regardless of
24 whether participants consume alcohol.

25 Existing law authorizes a manufacturer
26 licensee of beer or wine to donate its product to a

1 licensed charitable special event operated by a
2 nonprofit organization.

3 This bill would remove the requirement that
4 the charitable special event be licensed by the
5 Alcoholic Beverage Control Board.

6 This bill would also provide the Alcoholic
7 Beverage Control Board with rulemaking authority to
8 implement and administer this act.

9
10 A BILL

11 TO BE ENTITLED

12 AN ACT

13
14 Relating to the sale of alcoholic beverages; to
15 provide for the issuance of a nonprofit special events retail
16 license for the sale of beer, wine, and liquor; to specify who
17 may receive the license; to establish fees for the license; to
18 provide a procedure for notice and hearing to protest issuance
19 of the license; to provide for an alternate event date or
20 location; to authorize certain persons to serve alcohol
21 without a license under certain conditions; to provide the
22 Alcoholic Beverage Control Board with rulemaking authority;
23 and to amend Section 28-3A-6, Code of Alabama 1975, as last
24 amended by Act 2017-404, 2017 Regular Session, relating to
25 donations of alcoholic beverages to charitable events, to
26 remove the requirement that the charitable event be licensed

1 by the Alcoholic Beverage Control Board prior to being
2 eligible to receive a donation.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Definitions.

5 As used in Sections 1 through 9, the following words
6 shall have the following meanings:

7 (1) BOARD. The Alcoholic Beverage Control Board.

8 (2) NONPROFIT SPECIAL EVENTS RETAIL LICENSE. A
9 license issued pursuant to Section 2 for the sale of beer,
10 wine, or liquor.

11 (3) QUALIFYING ORGANIZATION. Either of the
12 following:

13 a. Any nonprofit corporation, association,
14 or organization which is exempt from federal income taxation
15 under Section 501(c)(3) of the Internal Revenue Code.

16 b. A nonprofit corporation or nonprofit group
17 organized for any of the following purposes:

18 1. Athletic.

19 2. Charitable.

20 3. Educational.

21 4. Literary.

22 5. Prevention of abuse to children or animals.

23 6. Public safety.

24 7. Scientific.

25 Section 2. License authorized.

26 The board may issue a nonprofit special events
27 retail license for the sale of beer, wine, and liquor to a

1 qualifying organization. The license shall authorize a
2 qualifying organization to purchase and sell specified
3 alcoholic beverages at a special event.

4 Section 3. Fees.

5 (a) Nonprofit special events retail license fees are
6 as follows:

7 (1) Ten dollars (\$10) per day for the sale of beer
8 and wine.

9 (2) Twenty-five dollars (\$25) per day for the sale
10 of beer, wine, and liquor.

11 (b) All fees are payable in advance to the board.

12 Section 4. Restrictions related to nonprofit special
13 events retail licenses.

14 (a) Each nonprofit special events retail license
15 shall be issued for a special event at a specific location and
16 is not valid for any other location except as provided in
17 Section 7.

18 (b) A nonprofit special events retail license
19 authorizes the sale of the beverage specified only between the
20 hours of 7:00 a.m. of the day specified and until 2:00 a.m. of
21 the day immediately following.

22 (c) A nonprofit special events retail license may
23 not be issued to a qualifying organization for more than 15
24 days in one calendar year.

25 Section 5. Grounds for denial.

26 (a) An application by a qualifying organization for
27 a nonprofit special events retail license may be denied upon

1 the grounds that the issuance would be injurious to the public
2 welfare because of the nature of the special event, its
3 location within the community, or the failure of the
4 qualifying organization in a past special event to conduct the
5 event in compliance with applicable laws.

6 (b) Public notice of the proposed nonprofit special
7 events retail license and of the procedure for protesting
8 issuance of the license shall be conspicuously posted at the
9 proposed location for at least seven calendar days before
10 approval of the permit.

11 Section 6. Applications for nonprofit special events
12 retail license.

13 (a) Applications for a nonprofit special events
14 retail license shall be made with the board at least 30
15 calendar days prior to the event on forms no longer than one
16 page provided by the board and shall be verified by oath or
17 affirmation of an officer of the qualifying organization
18 making the application.

19 (b) In addition to the fees provided in Section 3,
20 an applicant shall include payment of a fee established by the
21 board, not to exceed twenty-five dollars (\$25), for both
22 investigation and issuance of a nonprofit special events
23 retail license.

24 (c) The board shall hold a hearing if, after
25 investigation and upon review of the contents of a protest
26 filed by an affected person, sufficient grounds appear to
27 exist for denial of a nonprofit special events retail license.

1 A protest shall be filed within five calendar days after the
2 date notice is posted pursuant to Section 5. A hearing
3 required by this subsection or any hearing held at the
4 discretion of the board shall be held at least seven calendar
5 days after the initial posting of the notice, and notice of
6 the hearing shall be provided to the applicant and any person
7 who has filed a protest.

8 (d) The board may assign all or any portion of its
9 functions under this act to an administrative officer.

10 (e) The board shall either approve or disapprove
11 each application for a nonprofit special events retail license
12 within seven calendar days after the date notice is posted
13 pursuant to Section 5 or within seven calendar days after any
14 hearing conducted pursuant to this section, whichever is
15 later.

16 Section 7. Alternate event date or location.

17 The application for a nonprofit special events
18 retail license filed pursuant to Section 6 and the public
19 notice posted pursuant to Section 5 may contain an alternate
20 event date or location. If included in the application and
21 notice, the alternate event date or location may be used by
22 the qualifying organization in lieu of the original date and
23 location. There is no additional fee for using the alternate
24 event date or location.

25 Section 8. Exemptions.

26 A qualifying organization shall be exempt from the
27 license requirements of this act, the license requirements of

1 Chapter 3A of Title 28 of the Code of Alabama 1975, and any
2 other county or municipal beer, wine, or liquor retail license
3 requirement and shall be deemed to be dispensing gratuitously
4 and not to be selling beer, wine, or liquor when it serves, by
5 the drink, beer, wine, or liquor at a private function held by
6 the organization on unlicensed premises, so long as any
7 admission or other charge, if any, required to be paid as a
8 condition for entry into the event is uniform as to all
9 without regard to whether the participant consumes the beer,
10 wine, or liquor.

11 Section 9. Rulemaking authority.

12 The board may adopt rules necessary for the
13 implementation and administration of this act.

14 Section 10. Section 28-3A-6, Code of Alabama 1975,
15 as last amended by Act 2017-404 of the 2017 Regular Session,
16 is amended to read as follows:

17 "§28-3A-6.

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

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

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

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

4 "(e) Every manufacturer shall keep at its principal
5 place of business within the state, daily permanent records
6 which shall show the quantities of raw materials received and
7 used in the manufacture of alcoholic beverages, and the
8 quantities of alcoholic beverages manufactured and stored, the
9 sale of alcoholic beverages, the quantities of alcoholic
10 beverages stored for hire or transported for hire by or for
11 the licensee and the names and addresses of the purchasers or
12 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 as they may deem necessary, for the
17 detection of violations of this chapter, of any law, or of the
18 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, be
3 valid for the license year commencing January 1 of each year.

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

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

16 "(2) Notwithstanding subdivision (1), a manufacturer
17 licensee engaged in the manufacture of less than 60,000
18 barrels of beer per year may sell at retail on its licensed
19 premises in the state, for off-premises consumption, beer
20 produced at that licensed premises; provided, however, beer
21 sold for off-premises consumption: May not exceed 288 ounces
22 per customer per day; may not be produced pursuant to a
23 contract with another manufacturer; and shall be sealed,
24 labeled, packaged, and taxed in accordance with state and
25 federal laws and regulations. For purposes of this
26 subdivision, beer produced by a parent, subsidiary, or
27 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
26 containing such information as the board may prescribe, along
27 with proof of consent and approval from the appropriate

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

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

1 and payment of the tax levied by Section 28-3-190; as an agent
2 for the county or municipality for collection and payment of
3 the tax levied by Section 28-7-18; and as an agent for the
4 state for collection and payment of the tax levied by Sections
5 28-3-200 to 28-3-205, inclusive.

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

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

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

1 Section 11. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.