

1 HB462
2 128028-1
3 By Representative Boothe
4 RFD: Economic Development and Tourism
5 First Read: 06-APR-11

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8 SYNOPSIS: Under existing law, the term "draft or keg
9 beer" is not expressly defined.

10 This bill would define the term "draft or
11 keg beer."

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13 A BILL
14 TO BE ENTITLED
15 AN ACT

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17 To amend Section 28-3-1, Code of Alabama 1975, as
18 amended by Act 2010-607, 2010 Regular Session (Acts 2010, p.
19 1478), relating to alcoholic beverages; to define the term
20 "draft or keg beer."

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Section 28-3-1 of the Code of Alabama
23 1975, as amended by Act 2010-607, 2010 Regular Session (Acts
24 2010, p. 1478), is amended to read as follows:

25 "§28-3-1.

26 "The following words or phrases, whenever they
27 appear in this chapter, and in Alcoholic Beverage Licensing

1 Code, being Act No. 80-529, Acts of Alabama, 1980, as amended,
2 appearing as Chapter 3A, Title 28, as amended, and the Alabama
3 Table Wine Act, being Act 80-382, Acts of Alabama 1980, as
4 amended, appearing as Chapter 7, Title 28, as amended, unless
5 the context clearly indicates otherwise, shall have the
6 meaning ascribed to them in this section:

7 "(1) ALCOHOLIC BEVERAGES. Any alcoholic, spirituous,
8 vinous, fermented, or other alcoholic beverage, or combination
9 of liquors and mixed liquor, a part of which is spirituous,
10 vinous, fermented, or otherwise alcoholic, and all drinks or
11 drinkable liquids, preparations or mixtures intended for
12 beverage purposes, which contain one-half of one percent or
13 more of alcohol by volume, and shall include liquor, beer, and
14 wine.

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

18 "(3) BEER, or MALT OR BREWED BEVERAGES. Except as
19 otherwise provided in this subdivision, any beer, lager beer,
20 ale, porter, malt or brewed beverage, or similar fermented
21 malt liquor containing one-half of one percent or more of
22 alcohol by volume and not in excess of thirteen and
23 nine-tenths percent by volume, by whatever name the same may
24 be called.

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

26 "(5) CARTON. The package or container or containers
27 in which alcoholic beverages are originally packaged for

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

3 "(6) CONTAINER. The single bottle, can, keg, bag, or
4 other receptacle, not a carton, in which alcoholic beverages
5 are originally packaged for the market by the manufacturer or
6 importer and from which the alcoholic beverage is consumed by
7 or dispensed to the public.

8 "(7) CLUB.

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

23 "b. Class II. A corporation or association organized
24 or formed in good faith by authority of law and which must
25 have at least 100 paid-up members. It must be the owner,
26 lessee, or occupant of an establishment operated solely for
27 the objects of a national, social, patriotic, political, or

1 athletic nature or the like. The club shall hold regular
2 meetings, continue its business through officers regularly
3 elected, admit members by written application, investigation
4 and ballot and charge and collect dues from elected members.

5 "(8) CORPORATION. A corporation or joint stock
6 association organized under the laws of this state, the United
7 States, or any other state, territory or foreign country, or
8 dependency.

9 "(9) DRY COUNTY. Any county which by a majority of
10 those voting voted in the negative in an election heretofore
11 held under the applicable statutes at the time of the election
12 or may hereafter vote in the negative in an election or
13 special method referendum hereafter held in accordance with
14 the provisions of Chapter 2 of this title, or held in
15 accordance with the provisions of any act hereafter enacted
16 permitting such election.

17 "(10) DRY MUNICIPALITY. Any municipality within a
18 wet county which has, by its governing body or by a majority
19 of those voting in a municipal election heretofore held in
20 accordance with the provisions of Section 28-2-22, or in a
21 municipal option election heretofore or hereafter held in
22 accordance with the provisions of Act 84-408, Acts of Alabama
23 1984, appearing as Chapter 2A of this title, or any act
24 hereafter enacted permitting municipal option election, voted
25 to exclude the sale of alcoholic beverages within the
26 corporate limits of the municipality.

27 "(11) GENERAL WELFARE PURPOSES.

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

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

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

9 "d. Investigative and referral services to and on
10 behalf of needy persons.

11 "(12) HEARING COMMISSION. A body appointed by the
12 board to hear and decide all contested license applications
13 and all disciplinary charges against any licensee for
14 violation of this title or the regulations of the board.

15 "(13) HOTEL. A building or buildings held out to the
16 public for housing accommodations of travelers or transients,
17 and shall include motel, but shall not include a rooming house
18 or boarding house.

19 "(14) IMPORTER. Any person, association or
20 corporation engaged in importing alcoholic beverages, liquor,
21 wine, or beer, manufactured outside of the United States of
22 America into this state or for sale or distribution in this
23 state, or to the board or to a licensee of the board.

24 "(15) LIQUOR. Any alcoholic, spirituous, vinous,
25 fermented, or other alcoholic beverage, or combination of
26 liquors and mixed liquor, a part of which is spirituous,
27 fermented, vinous or otherwise alcoholic, and all drinks or

1 drinkable liquids, preparations or mixtures intended for
2 beverage purposes, which contain one-half of one percent or
3 more of alcohol by volume, except beer and table wine.

4 "(16) LIQUOR STORE. A liquor store operated by the
5 board, where alcoholic beverages other than beer are
6 authorized to be sold in unopened containers.

7 "(17) MANUFACTURER. Any person, association, or
8 corporation engaged in the producing, bottling, manufacturing,
9 distilling, rectifying, or compounding of alcoholic beverages,
10 liquor, beer, or wine in this state or for sale or
11 distribution in this state or to the board or to a licensee of
12 the board.

13 "(18) MINOR. Any person under 21 years of age,
14 except a person 19 years of age or older prior to October 1,
15 1985, is not a minor; provided, however, in the event Section
16 28-1-5, shall be repealed or otherwise shall be no longer in
17 effect, thereafter the provisions of Section 26-1-1, shall
18 govern.

19 "(19) MUNICIPALITY. Any incorporated city or town of
20 this state to include its police jurisdiction.

21 "(20) PERSON. Every natural person, association, or
22 corporation. Whenever used in a clause prescribing or imposing
23 a fine or imprisonment, or both, such term as applied to
24 association shall mean the partners or members thereof and as
25 applied to corporation shall mean the officers thereof, except
26 as to incorporated clubs the term person shall mean such
27 individual or individuals who, under the bylaws of such clubs,

1 shall have jurisdiction over the possession and sale of liquor
2 therein.

3 "(21) POPULATION. The population according to the
4 last preceding or any subsequent decennial census of the
5 United States, except where a municipality is incorporated
6 subsequent to the last census, in which event, its population
7 until the next decennial census shall be the population of the
8 municipality as determined by the judge of probate of the
9 county as the official population on the date of its
10 incorporation.

11 "(22) RESTAURANT. A reputable place licensed as a
12 restaurant, operated by a responsible person of good
13 reputation and habitually and principally used for the purpose
14 of preparing and serving meals for the public to consume on
15 the premises.

16 "(23) MEAL. A diversified selection of food some of
17 which is not susceptible of being consumed in the absence of
18 at least some articles of tableware and which cannot be
19 conveniently consumed while one is standing or walking about.

20 "(24) RETAILER. Any person licensed by the board to
21 engage in the retail sale of any alcoholic beverages to the
22 consumer.

23 "(25) SALE or SELL. Any transfer of liquor, wine or
24 beer for a consideration, and any gift in connection with, or
25 as a part of, a transfer of property other than liquor, wine
26 or beer for a consideration.

1 "(26) SELLING PRICE. The total marked-up price of
2 spirituous or vinous liquors sold by the board, exclusive of
3 taxes levied thereon.

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

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

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

1 "(30) WHOLESALER. Any person licensed by the board
2 to engage in the sale and distribution of table wine and beer,
3 or either of them, within this state, at wholesale only, to be
4 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 "(31) WINE. All beverages made from the fermentation
9 of fruits, berries, or grapes, with or without added spirits,
10 and produced in accordance with the laws and regulations of
11 the United States, containing not more than 24 percent alcohol
12 by volume, and shall include all sparkling wines, carbonated
13 wines, special natural wines, rectified wines, vermouths,
14 vinous beverages, vinous liquors, and like products, including
15 restored or unrestored pure condensed juice.

16 "(32) TABLE WINE. Except as otherwise provided in
17 this subdivision, any wine containing not more than 24 percent
18 alcohol by volume. Table wine does not include any wine
19 containing more than sixteen and one-half percent alcohol by
20 volume that is made with herbs or flavors, except vermouth, or
21 is an imitation or other than standard wine. Table wine is not
22 liquor, spirituous, or vinous.

23 "(33) BRANDY. All beverages which are an alcoholic
24 distillate from the fermented juice, mash, or wine of fruit,
25 or from the residue thereof, produced in such manner that the
26 distillate possesses the taste, aroma, and characteristics

1 generally attributed to the beverage, as bottled at not less
2 than 80 degree proof.

3 "(34) DRAFT OR KEG BEER. Draft or keg beer is beer,
4 as otherwise defined in this title, which is packaged and
5 distributed in a keg by the manufacturer. A keg is hereby
6 defined as a pressurized factory sealed container with a
7 capacity equal to or greater than five US gallons, from which
8 the beer is withdrawn by means of an external tap."

9 Section 2. This act shall become effective on the
10 first day of the third month following its passage and
11 approval by the Governor, or its otherwise becoming law.