

1 HB9  
2 149227-4  
3 By Representative McCutcheon  
4 RFD: Economic Development and Tourism  
5 First Read: 05-FEB-13  
6 PFD: 12/07/2012

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ENROLLED, An Act,

To permit persons 21 years of age or older to produce a limited amount of home brewed beer, mead, cider, and table wine for personal use; to prohibit a convicted felon from home brewing such beverages; to provide penalties for violations; to amend Section 28-3-1, Code of Alabama 1975, relating to definitions of alcoholic beverages, to include definitions of mead and cider; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) Notwithstanding any provisions to the contrary, a person who has not been convicted of a felony in Alabama or any other state or federal jurisdiction, and who is not prohibited by Section 28-1-5, Code of Alabama 1975, from purchasing, consuming, possessing, or transporting alcoholic beverages due to age may produce at his or her legal residence beer, mead, cider, and table wine, as those terms are defined in Section 28-3-1, Code of Alabama 1975, for personal use, in the amounts specified in this act, without payment of taxes or fees and without obtaining a license. The aggregate amount of

1 the beer, mead, cider, and table wine permitted to be produced  
2 under this act, with respect to any legal residence, shall not  
3 exceed 15 gallons for each quarter of a calendar year.

4 Further, there shall not be in any legal residence at any one  
5 time more than an aggregate amount of 15 gallons of beer,  
6 mead, cider, and table wine which has been produced under the  
7 authority of this act.

8 (b) Beer, mead, cider, or table wine produced under  
9 this act may not be sold or offered for sale.

10 (c) Beer, mead, cider, or table wine produced under  
11 this act may not be removed from the legal residence where it  
12 was produced, except in quantities no larger than 10 gallons,  
13 aggregate, for any one event, and to be transported for  
14 personal use at organized events of homebrew competitions and  
15 judgments licensed by the Alcoholic Beverage Control Board as a  
16 special events retail license under Section 28-3A-20, Code of  
17 Alabama 1975, provided that the license will not allow the  
18 purchase or sale of any alcoholic beverages when that license  
19 is used for this purpose. Organized events involving beer,  
20 mead, cider, or table wine produced for personal use may not  
21 be held on the premises of entities otherwise licensed under  
22 Title 28, Code of Alabama 1975.

23 (d) Nothing in this act permits the production of  
24 distilled liquors, for personal use or otherwise, or the use

1 of distilled liquors or products in the production of beer,  
2 mead, cider, or table wine provided in this section.

3 (e) It shall be unlawful for any person less than 21  
4 years of age to attempt to purchase, consume, possess, or  
5 transport beer, mead, cider, or table wine produced for  
6 personal use.

7 (f) It shall be unlawful for any person less than 21  
8 years of age to attempt to purchase, possess, or transport any  
9 apparatus or equipment used to produce beer, mead, cider, or  
10 table wine. It shall be unlawful for any person, partnership,  
11 corporation, or other legal entity to sell, furnish, give  
12 away, or provide to any person less than 21 years of age any  
13 apparatus or equipment used to produce beer, mead, cider, or  
14 table wine.

15 (g) Nothing in this section permits the production  
16 of beer, mead, cider, or table wine in a dry municipality, as  
17 defined in Chapter 3 of Title 28, Code of Alabama 1975.  
18 Further, with the exception of wet municipalities, as defined  
19 in Chapter 3 of Title 28, Code of Alabama 1975, nothing in  
20 this section permits the production of beer, mead, cider, or  
21 table wine in a dry county as defined in Chapter 3 of Title  
22 28, Code of Alabama 1975.

23 (h) The definitions contained in Section 28-3-1 of  
24 the Code of Alabama 1975, shall apply to this act.

1 (i) Any violation of this section shall be a Class B  
2 misdemeanor.

3 Section 2. Section 28-3-1, Code of Alabama 1975, is  
4 amended to read as follows:

5 "§28-3-1.

6 "The following words or phrases, whenever they  
7 appear in this chapter, and in Alcoholic Beverage Licensing  
8 Code, being Act No. 80-529, Acts of Alabama, 1980, as amended,  
9 appearing as Chapter 3A, Title 28, as amended, and the Alabama  
10 Table Wine Act, being Act 80-382, Acts of Alabama 1980, as  
11 amended, appearing as Chapter 7, Title 28, as amended, unless  
12 the context clearly indicates otherwise, shall have the  
13 meaning ascribed to them in this section:

14 "(1) ALCOHOLIC BEVERAGES. Any alcoholic, spirituous,  
15 vinous, fermented, or other alcoholic beverage, or combination  
16 of liquors and mixed liquor, a part of which is spirituous,  
17 vinous, fermented, or otherwise alcoholic, and all drinks or  
18 drinkable liquids, preparations or mixtures intended for  
19 beverage purposes, which contain one-half of one percent or  
20 more of alcohol by volume, and shall include liquor, beer, and  
21 wine.

22 "(2) ASSOCIATION. A partnership, limited  
23 partnership, or any form of unincorporated enterprise owned by  
24 two or more persons.

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

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

9           "(5) CARTON. The package or container or containers  
 10 in which alcoholic beverages are originally packaged for  
 11 shipment to market by the manufacturer or its designated  
 12 representatives or the importer.

13           "(6) CIDER. A fermented alcoholic beverage made from  
 14 apple juice and containing not more than 8.5 percent alcohol  
 15 by volume.

16           "~~(6)~~(7) CONTAINER. The single bottle, can, keg, bag,  
 17 or other receptacle, not a carton, in which alcoholic  
 18 beverages are originally packaged for the market by the  
 19 manufacturer or importer and from which the alcoholic beverage  
 20 is consumed by or dispensed to the public.

21           "~~(7)~~(8) CLUB.

22           "a. Class I. A corporation or association organized  
 23 or formed in good faith by authority of law and which must  
 24 have at least 150 paid-up members. It must be the owner,  
 25 lessee, or occupant of an establishment operated solely for

1 the objects of a national, social, patriotic, political, or  
2 athletic nature or the like, but not for pecuniary gain, and  
3 the property as well as the advantages of which, belong to all  
4 the members and which maintains an establishment provided with  
5 special space and accommodations where, in consideration of  
6 payment, food with or without lodging is habitually served.  
7 The club shall hold regular meetings, continue its business  
8 through officers regularly elected, admit members by written  
9 application, investigation, and ballot and charge and collect  
10 dues from elected members.

11 "b. Class II. A corporation or association organized  
12 or formed in good faith by authority of law and which must  
13 have at least 100 paid-up members. It must be the owner,  
14 lessee, or occupant of an establishment operated solely for  
15 the objects of a national, social, patriotic, political, or  
16 athletic nature or the like. The club shall hold regular  
17 meetings, continue its business through officers regularly  
18 elected, admit members by written application, investigation  
19 and ballot and charge and collect dues from elected members.

20 "~~(8)~~ (9) CORPORATION. A corporation or joint stock  
21 association organized under the laws of this state, the United  
22 States, or any other state, territory or foreign country, or  
23 dependency.

24 "~~(9)~~ (10) DRY COUNTY. Any county which by a majority  
25 of those voting voted in the negative in an election

1 heretofore held under the applicable statutes at the time of  
 2 the election or may hereafter vote in the negative in an  
 3 election or special method referendum hereafter held in  
 4 accordance with the provisions of Chapter 2 of this title, or  
 5 held in accordance with the provisions of any act hereafter  
 6 enacted permitting such election.

7 "~~(10)~~ (11) DRY MUNICIPALITY. Any municipality within  
 8 a wet county which has, by its governing body or by a majority  
 9 of those voting in a municipal election heretofore held in  
 10 accordance with the provisions of Section 28-2-22, or in a  
 11 municipal option election heretofore or hereafter held in  
 12 accordance with the provisions of Act 84-408, Acts of Alabama  
 13 1984, appearing as Chapter 2A of this title, or any act  
 14 hereafter enacted permitting municipal option election, voted  
 15 to exclude the sale of alcoholic beverages within the  
 16 corporate limits of the municipality.

17 "~~(11)~~ (12) GENERAL WELFARE PURPOSES.

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

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

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



1            "d. Investigative and referral services to and on  
2 behalf of needy persons.

3            "~~(12)~~ (13) HEARING COMMISSION. A body appointed by  
4 the board to hear and decide all contested license  
5 applications and all disciplinary charges against any licensee  
6 for violation of this title or the regulations of the board.

7            "~~(13)~~ (14) HOTEL. A building or buildings held out to  
8 the public for housing accommodations of travelers or  
9 transients, and shall include motel, but shall not include a  
10 rooming house or boarding house.

11            "~~(14)~~ (15) IMPORTER. Any person, association or  
12 corporation engaged in importing alcoholic beverages, liquor,  
13 wine, or beer, manufactured outside of the United States of  
14 America into this state or for sale or distribution in this  
15 state, or to the board or to a licensee of the board.

16            "~~(15)~~ (16) LIQUOR. Any alcoholic, spirituous, vinous,  
17 fermented, or other alcoholic beverage, or combination of  
18 liquors and mixed liquor, a part of which is spirituous,  
19 fermented, vinous or otherwise alcoholic, and all drinks or  
20 drinkable liquids, preparations or mixtures intended for  
21 beverage purposes, which contain one-half of one percent or  
22 more of alcohol by volume, except beer and table wine.

23            "~~(16)~~ (17) LIQUOR STORE. A liquor store operated by  
24 the board, where alcoholic beverages other than beer are  
25 authorized to be sold in unopened containers.

1           "~~(17)~~(18) MANUFACTURER. Any person, association, or  
2 corporation engaged in the producing, bottling, manufacturing,  
3 distilling, rectifying, or compounding of alcoholic beverages,  
4 liquor, beer, or wine in this state or for sale or  
5 distribution in this state or to the board or to a licensee of  
6 the board.

7           "(19) MEAD. An alcoholic beverage produced by  
8 fermenting a solution of honey and water with grain mash and  
9 containing not more than 18 percent alcohol by volume.

10           "~~(18)~~(20) MINOR. Any person under 21 years of age,  
11 except a person 19 years of age or older prior to October 1,  
12 1985, is not a minor; provided, however, in the event Section  
13 28-1-5, shall be repealed or otherwise shall be no longer in  
14 effect, thereafter the provisions of Section 26-1-1, shall  
15 govern.

16           "~~(19)~~(21) MUNICIPALITY. Any incorporated city or  
17 town of this state to include its police jurisdiction.

18           "~~(20)~~(22) PERSON. Every natural person, association,  
19 or corporation. Whenever used in a clause prescribing or  
20 imposing a fine or imprisonment, or both, such term as applied  
21 to association shall mean the partners or members thereof and  
22 as applied to corporation shall mean the officers thereof,  
23 except as to incorporated clubs the term person shall mean  
24 such individual or individuals who, under the bylaws of such

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

3 "~~(21)~~(23) POPULATION. The population according to  
4 the 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)~~(24) RESTAURANT. A reputable place licensed as  
12 a 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)~~(25) MEAL. A diversified selection of food some  
17 of which is not susceptible of being consumed in the absence  
18 of at least some articles of tableware and which cannot be  
19 conveniently consumed while one is standing or walking about.

20 "~~(24)~~(26) RETAILER. Any person licensed by the board  
21 to engage in the retail sale of any alcoholic beverages to the  
22 consumer.

23 "~~(25)~~(27) SALE or SELL. Any transfer of liquor, wine  
24 or beer for a consideration, and any gift in connection with,

1 or as a part of, a transfer of property other than liquor,  
2 wine or beer for a consideration.

3 "~~(26)~~ (28) SELLING PRICE. The total marked-up price  
4 of spirituous or vinous liquors sold by the board, exclusive  
5 of taxes levied thereon.

6 "~~(27)~~ (29) UNOPENED CONTAINER. A container containing  
7 alcoholic beverages, which has not been opened or unsealed  
8 subsequent to filling and sealing by the manufacturer or  
9 importer.

10 "~~(28)~~ (30) WET COUNTY. Any county which by a majority  
11 of those voting voted in the affirmative in an election  
12 heretofore held in accordance with the statutes applicable at  
13 the time of the election or may hereafter vote in the  
14 affirmative in an election or special method referendum held  
15 in accordance with the provisions of Chapter 2 of this title,  
16 or other statutes applicable at the time of the election.

17 "~~(29)~~ (31) WET MUNICIPALITY. Any municipality in a  
18 dry county which by a majority of those voting voted in the  
19 affirmative in a municipal option election heretofore or  
20 hereafter held in accordance with the provisions of Act  
21 84-408, Acts of Alabama 1984, appearing as Chapter 2A of this  
22 title, as amended, or any act hereafter enacted permitting  
23 municipal option election, or any municipality which became  
24 wet by vote of the governing body or by the voters of the  
25 municipality heretofore or hereafter held under the special

1 method referendum provisions of Section 28-2-22, or as  
2 hereafter provided, where the county has become dry subsequent  
3 to the elected wet status of the municipality.

4 "~~(30)~~(32) WHOLESALER. Any person licensed by the  
5 board to engage in the sale and distribution of table wine and  
6 beer, or either of them, within this state, at wholesale only,  
7 to be sold by export or to retail licensees or other wholesale  
8 licensees or others within this state lawfully authorized to  
9 sell table wine and beer, or either of them, for the purpose  
10 of resale only.

11 "~~(31)~~(33) WINE. All beverages made from the  
12 fermentation of fruits, berries, or grapes, with or without  
13 added spirits, and produced in accordance with the laws and  
14 regulations of the United States, containing not more than 24  
15 percent alcohol by volume, and shall include all sparkling  
16 wines, carbonated wines, special natural wines, rectified  
17 wines, vermouths, vinous beverages, vinous liquors, and like  
18 products, including restored or unrestored pure condensed  
19 juice.

20 "~~(32)~~(34) TABLE WINE. Except as otherwise provided  
21 in this subdivision, any wine containing not more than 24  
22 percent alcohol by volume. Table wine does not include any  
23 wine containing more than sixteen and one-half percent alcohol  
24 by volume that is made with herbs or flavors, except vermouth,

1 or is an imitation or other than standard wine. Table wine is  
2 not liquor, spirituous, or vinous.

3 "~~(33)~~(35) BRANDY. All beverages which are an  
4 alcoholic distillate from the fermented juice, mash, or wine  
5 of fruit, or from the residue thereof, produced in such manner  
6 that the distillate possesses the taste, aroma, and  
7 characteristics generally attributed to the beverage, as  
8 bottled at not less than 80 degree proof."

9 Section 3. Although this bill would have as its  
10 purpose or effect the requirement of a new or increased  
11 expenditure of local funds, the bill is excluded from further  
12 requirements and application under Amendment 621, now  
13 appearing as Section 111.05 of the Official Recompilation of  
14 the Constitution of Alabama of 1901, as amended, because the  
15 bill defines a new crime or amends the definition of an  
16 existing crime.

17 Section 4. This act shall become effective  
18 immediately following its passage and approval by the  
19 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 02-APR-13, as amended.

Jeff Woodard  
Clerk

Senate

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07-MAY-13

Passed