

1 SB328  
2 119783-2  
3 By Senator Singleton  
4 RFD: Tourism and Marketing  
5 First Read: 02-FEB-10

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 To amend Sections 28-4A-2, 28-4A-3, 28-4A-4, and  
12 28-4A-6, Code of Alabama 1975, the Alabama Brewpub Act, to  
13 allow brewpub licensees to sell beer brewed on-premises to a  
14 licensed wholesaler for distribution to retail licensees.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 28-4A-2, 28-4A-3, 28-4A-4, and  
17 28-4A-6, Code of Alabama 1975, are amended to read as follows:

18 "§28-4A-2.

19 "(a) The words and phrases used in this chapter  
20 shall have the meanings ascribed to them in Section 28-3-1,  
21 and any acts amendatory thereof, supplementary thereto or  
22 substituted therefor.

23 "(b) The following words or phrases, whenever they  
24 appear in this chapter, unless the context clearly indicates  
25 otherwise, shall have the meaning ascribed to them in this  
26 subsection:

1           "(1) BREWPUB. Any premises upon which beer is  
2 manufactured or brewed, ~~subject to the barrel production~~  
3 ~~limitation prescribed in this chapter, for consumption~~  
4 ~~exclusively on the premises~~ including a wholly owned affiliate  
5 or subsidiary of a manufacturer licensed under the laws of the  
6 State of Alabama.

7           "(2) PREMISES. Any building, structure or portion  
8 thereof ~~designated as a historic building and site as defined~~  
9 ~~in Section 40-8-1,~~ in which is located the operations of a  
10 brewpub.

11           "§28-4A-3.

12           "(a) In addition to the licenses authorized to be  
13 issued and renewed by the board pursuant to the Alcoholic  
14 Beverage Licensing Code codified as Chapter 3A, Title 28, the  
15 board, upon applicant's compliance with the provisions of this  
16 chapter and with Chapter 3A, Title 28, and the regulations  
17 made thereunder, is authorized to issue to a qualified  
18 applicant a brewpub license which shall authorize the licensee  
19 to manufacture or brew beer, ~~in a quantity not to exceed~~  
20 ~~10,000 barrels in any one year and to sell such beer in~~  
21 ~~unpackaged form at retail for on-premises consumption only, to~~  
22 sell beer brewed on-premises to a licensed wholesaler for  
23 distribution to retail licensees, and to purchase beer in  
24 original unopened containers from licensed wholesalers and to  
25 sell such beer at retail for on-premises consumption only, in  
26 a room or rooms or place on the licensed premises at all times

1 accessible to the use and accommodation of the general public,  
2 subject to the following conditions:

3 "(1) The brewpub premises must be located ~~in an~~  
4 ~~historic building or site as defined in Section 40-8-1,~~ in a  
5 wet county or wet municipality, ~~in which county beer was~~  
6 ~~brewed for public consumption prior to the ratification of the~~  
7 ~~Eighteenth Amendment to the U.S. Constitution in 1919.~~

8 "(2) The proposed location of the premises shall  
9 not, at the time of the original application, be prohibited by  
10 a valid zoning ordinance or other ordinance in the valid  
11 exercise of police power by the governing body of the  
12 municipality or county in which the brewpub is located.

13 "(3) ~~Beer brewed by the~~ A brewpub licensee shall not  
14 ~~be possessed, sold or dispensed except on the premises where~~  
15 ~~brewed, and shall not be packaged or contained in other than~~  
16 ~~barrels from which the beer is to be dispensed on the premises~~  
17 ~~for consumption on the premises~~ may offer tours of its  
18 facility to the general public and may provide free samples,  
19 not to exceed six ounces, to be consumed on-premises as a way  
20 to promote its products.

21 "(4) The brewpub ~~must~~ may contain and operate a  
22 restaurant ~~with a seating capacity of not less than 80.~~

23 "(b) The annual license fee levied and prescribed  
24 for a license as a brewpub issued or renewed by the board  
25 pursuant to the authority of this chapter is \$1,000.

26 "(c) Except as provided in this subsection, the  
27 provisions of Title 28 shall be applicable. The provisions of

1 Section 28-3-4 and subsection (b) of Section 28-3A-6, shall  
2 not be applicable with regard to beer brewed by the brewpub  
3 and sold and dispensed on the brewpub premises. In all other  
4 respects, Section 28-3-4 and Section 28-3A-6(b) shall be  
5 applicable.

6 "§28-4A-4.

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

1           "(b) The brewpub shall be required to keep and  
2 maintain all of the records otherwise required to be kept and  
3 maintained by manufacturer, wholesaler, and retailer  
4 licensees.

5           "(c) The brewpub shall appoint a licensed wholesaler  
6 designee in order to preserve Section 28-9-1. In addition, for  
7 the on-premises sales of beer brewed by the brewpub licensee,  
8 the brewpub shall be exempt from Sections 28-9-3 through  
9 28-9-11.

10           "§28-4A-6.

11           "The Legislature finds that it is in the best  
12 interest of the public welfare of the State of Alabama to  
13 ~~preserve and redevelop the original "downtown" municipal areas~~  
14 ~~of this state and to further promote the preservation and~~  
15 ~~redevelopment of historic buildings and sites~~ promote local  
16 industry in the state. The Legislature finds that an effective  
17 way of facilitating ~~the urban redevelopment program and the~~  
18 ~~preservation of historic buildings and sites~~ small brewery  
19 businesses is by creating a single exception to the existing  
20 alcoholic beverage laws to authorize and permit the  
21 establishment of brewpubs ~~located in historic buildings and~~  
22 ~~sites in urban redevelopment areas of those municipalities~~  
23 ~~located within counties where the brewing of beer for~~  
24 ~~consumption by the public had historically been located.~~ The  
25 policy and intent of the Legislature in the enactment of this  
26 chapter is to promote the public welfare by further regulating  
27 and controlling alcoholic beverage transactions in Alabama

1 under the control and supervision of the Alabama Alcoholic  
2 Beverage Control Board to accomplish this legislative purpose  
3 set forth herein."

4 Section 2. This act shall become effective  
5 immediately following its passage and approval by the  
6 Governor, or its otherwise becoming law.

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3 Senate  
4 Read for the first time and referred to the Senate  
5 committee on Tourism and Marketing ..... 02-FEB-10  
6  
7 Read for the second time and placed on the calen-  
8 dar ..... 23-FEB-10  
9  
10 Read for the third time and passed as amended ... 06-APR-10

11 Yeas 13  
12 Nays 7  
13 Abstaining 1

14  
15  
16 McDowell Lee  
17 Secretary  
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