

1 SB452
2 168643-2
3 By Senators Holtzclaw, Sanford and Williams
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 05-MAY-15

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8 SYNOPSIS: This bill would allow a brewpub to sell
9 alcoholic beverages for on-premises and
10 off-premises consumption.

11 This bill would create a license for limited
12 production breweries that allows the breweries to
13 produce beer and operate a restaurant on their
14 licensed premises and sell their beer at the
15 brewery and restaurant.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT
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21 To amend Section 28-4A-3 of the Code of Alabama
22 1975, relating to brewpubs; to allow a brewpub to sell
23 alcoholic beverages for on-premises and off-premises
24 consumption; and to create a new Section 28-3A-6.1 in the Code
25 of Alabama 1975, to license a craft brewer to produce and
26 package no more than 60,000 barrels of beer per year; to allow
27 a craft brewer to operate a facility where food is provided on

1 its licensed premises and sell beer on its licensed premises
2 that it produces there.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 28-4A-3 of the Code of Alabama
5 1975, is amended to read as follows:

6 "§28-4A-3.

7 "(a) In addition to the licenses authorized to be
8 issued and renewed by the board pursuant to the Alcoholic
9 Beverage Licensing Code codified as Chapter 3A of this title,
10 the board, upon applicant's compliance with the provisions of
11 this chapter and with Chapter 3A and the regulations made
12 thereunder, is authorized to issue to a qualified applicant a
13 brewpub license which shall authorize the licensee to
14 manufacture or brew beer, in a quantity not to exceed 10,000
15 barrels in any one year and to sell beer brewed on the
16 licensed premises in unpackaged form at retail ~~for on-premises~~
17 ~~consumption at the licensed premises only,~~ at the licensed
18 premises for on-premises or off-premises consumption to sell
19 beer brewed on the premises in original, unopened barrel or
20 keg containers to any licensed wholesaler designated by a
21 brewpub licensee pursuant to Sections 28-8-2 and 28-9-3 for
22 resale to retail licensees, and to purchase beer, including
23 draft or keg beer, in original, unopened containers from
24 licensed wholesalers and to sell such beer at retail for
25 on-premises consumption only, in a room or rooms or place on
26 the licensed premises at all times accessible to the use and

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

3 "(1) The brewpub premises must be located in an
4 historic building or site as defined in Section 40-8-1, or in
5 a registered historic district, or in any economically
6 distressed area designated as suitable by the municipal or
7 county governing body, in a wet county or wet municipality, in
8 which county beer was brewed for public consumption prior to
9 the ratification of the Eighteenth Amendment to the U.S.
10 Constitution in 1919.

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

16 "(3) Beer brewed by the brewpub licensee shall be
17 packaged or contained in barrels from which the beer is to be
18 dispensed only on the premises where brewed for consumption on
19 or off the premises or sold in original, unopened barrel or
20 keg containers to any designated wholesaler licensee for
21 resale to retailer licensees.

22 "(4) The brewpub must contain and operate a
23 restaurant or otherwise provide food for consumption on the
24 premises.

25 "(5) The brewpub may not sell any alcoholic
26 beverages if it is not actively and continuously engaged in

1 the manufacture or brewing of alcoholic beverages on the
2 brewpub's licensed premises.

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

6 "(c) Except as provided in this subsection, the
7 provisions of this title shall be applicable. The provisions
8 of Section 28-3-4 and subsection (b) of Section 28-3A-6, shall
9 not be applicable with regard to beer brewed by the brewpub
10 and sold and dispensed on the brewpub premises. In all other
11 respects, Section 28-3-4 and Section 28-3A-6(b) shall be
12 applicable."

13 Section 2. A new Section 28-3A-6.1 is added to the
14 Code of Alabama 1975, to read as follows:

15 §28-3A-6.1.

16 (a) The words and phrases used in this section shall
17 have the meanings ascribed to them in Section 28-3-1, and any
18 acts amendatory thereof, supplementary thereto, or substituted
19 therefor or as described in subsection (b) of this section.

20 (b) The following words or phrases, whenever they
21 appear in this section, unless the context clearly indicates
22 otherwise, shall have the meaning ascribed to them in this
23 subsection:

24 (1) BREW. The production and packaging of beer.

25 (2) CRAFT BREWER. Any person, association, or
26 corporation that brews collectively at all of its locations,
27 whether within or without this state, and among all of its

1 parents, affiliates, subsidiaries, and partners, no more than
2 60,000 barrels of beer per year.

3 (c) Upon a craft brewer's application to the board
4 and compliance with the provisions of this chapter and the
5 regulations made thereunder, the board shall issue to the
6 craft brewer a craft brewer license which shall authorize the
7 licensee to brew no more than 60,000 barrels of beer per year
8 within this state or for sale or distribution within this
9 state.

10 (d) A craft brewer licensee may sell its beer in
11 this state to only licensed wholesalers or direct to consumers
12 on the licensed premises as set forth in subsection (i). No
13 craft brewer licensee shall sell any beer direct to any
14 retailer, nor sell or deliver any such beer to wholesalers in
15 other than original containers approved as to capacity by the
16 board and in accordance with standards of fill prescribed by
17 the U. S. Treasury Department, nor maintain or operate within
18 the state any place or places, other than the place or places
19 covered by the craft brewer license, where beer is sold or
20 where orders are taken.

21 (e) Each craft brewer licensee shall be required to
22 file with the board, prior to making any sales in Alabama, a
23 list of its labels to be sold in Alabama and shall file with
24 the board its federal certificate of label approvals or its
25 certificates of exemption as required by the U. S. Treasury
26 Department.

1 (f) All such craft brewer licensees shall be
2 required to mail to the board prior to the twentieth day of
3 each month a consolidated report of all shipments of beer made
4 to each wholesaler during the preceding month. The reports
5 shall be in such form and containing such information as the
6 board may prescribe.

7 (g) Every craft brewer shall keep at its principal
8 place of business within the state daily permanent records
9 which shall show the quantities of raw materials received and
10 used in the brewing of beer, and the quantities of beer brewed
11 and stored, the quantity of beer sold, the quantities of beer
12 stored or transported for hire, by or for the licensee, and
13 the names and addresses of the purchasers or other recipients
14 thereof.

15 (h) Every place licensed as a craft brewer shall be
16 subject to inspection by members of the board or by persons
17 duly authorized and designated by the board, at any and all
18 times of the day or night as they may deem necessary, for the
19 detection of violations of this chapter, of any law, or of the
20 rules and regulations of the board, or for the purpose of
21 ascertaining the correctness of the records required to be
22 kept by the licensees. The books and records of such licensees
23 shall, at all times, be open to inspection by members of the
24 board, or by persons duly authorized and designated by the
25 board. Members of the board and its duly authorized agents
26 shall have the right, without hindrance, to enter any place
27 which is subject to inspection hereunder, or any place where

1 such records are kept for the purpose of making such
2 inspections and making transcripts thereof.

3 (i) A craft brewer licensee actively and
4 continuously engaged in brewing beer on the craft brewer's
5 licensed premises in the State of Alabama may, notwithstanding
6 any other provision of law, operate a facility where food is
7 provided on the craft brewer's licensed premises; give away
8 free samples of beer brewed at the licensed premises for
9 on-premises consumption; and sell at retail on its licensed
10 premises, for on-premises or off-premises consumption, beer
11 brewed at that licensed premises. Provided, however, beer sold
12 for off-premises consumption shall be draft beer and may not
13 exceed 256 ounces per customer per day.

14 (j)(1) In addition to the licenses provided for by
15 Chapter 3A of this title, and any county or municipal license,
16 there is levied on the craft brewer of the beer dispensed on
17 the premises the privilege or excise tax imposed by Sections
18 28-3-184 and 28-3-190. Every craft brewer licensee shall file
19 the tax returns, pay the taxes, and perform all obligations
20 imposed on wholesalers at the times and places set forth
21 therein. It shall be unlawful for any craft brewer licensee
22 who is required to pay the taxes so imposed in the first
23 instance to fail or refuse to add to the sale price and
24 collect from the purchaser the required amount of tax, it
25 being the intent and purpose of this provision that each of
26 the taxes levied is in fact a tax on the consumer, with the
27 craft brewer licensee who pays the tax in the first instance

1 acting merely as an agent of the state for the collection and
2 payment of the tax levied by Section 28-3-184; and as an agent
3 for the county or municipality for the collection and payment
4 of the tax levied by Section 28-3-190.

5 (2) The craft brewer licensee shall keep and
6 maintain all records required to be kept and maintained by the
7 craft brewer, wholesaler, and retailer licensees for the tax
8 so levied.

9 (k) The annual license fee levied and prescribed for
10 a license as a craft brewer issued or renewed by the board
11 pursuant to the authority of this chapter shall be five
12 hundred dollars (\$500).

13 Section 3. This act shall become effective on the
14 first day of the third month following its passage and
15 approval by the Governor, or its otherwise becoming law.