

2  
3 SUBSTITUTE FOR HB406  
4  
5  
6  
7

8 SYNOPSIS: Under existing law, alcoholic beverage  
9 manufacturers located in Alabama that produce beer  
10 are not permitted to sell any alcoholic beverages  
11 on-premises. The only exception is a special class  
12 of beer manufacturers called brewpubs, permitted  
13 under the Alabama Brewpub Act, which may sell beer  
14 brewed on-premises to consumers for on-premises  
15 consumption only.

16 This bill would allow brewpub licensees to  
17 sell beer brewed on-premises to a licensed  
18 wholesaler for distribution to retail licensees.  
19

20 A BILL

21 TO BE ENTITLED

22 AN ACT  
23

24 To amend Sections 28-4A-2, 28-4A-3, 28-4A-4, and  
25 28-4A-6, Code of Alabama 1975, the Alabama Brewpub Act, to  
26 allow brewpub licensees to sell beer brewed on-premises to a  
27 licensed wholesaler for distribution to retail licensees.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

4 "§28-4A-2.

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

9 "(b) The following words or phrases, whenever they  
10 appear in this chapter, unless the context clearly indicates  
11 otherwise, shall have the meaning ascribed to them in this  
12 subsection:

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

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

23 "§28-4A-3.

24 "(a) In addition to the licenses authorized to be  
25 issued and renewed by the board pursuant to the Alcoholic  
26 Beverage Licensing Code codified as Chapter 3A, Title 28, the  
27 board, upon applicant's compliance with the provisions of this

1 chapter and with Chapter 3A, Title 28, and the regulations  
2 made thereunder, is authorized to issue to a qualified  
3 applicant a brewpub license which shall authorize the licensee  
4 to manufacture or brew beer, ~~in a quantity not to exceed~~  
5 ~~10,000 barrels in any one year~~ and to sell such beer in  
6 unpackaged form at retail for on-premises consumption ~~only, to~~  
7 sell beer brewed on-premises to a licensed wholesaler for  
8 distribution to retail licensees, and to purchase beer in  
9 original unopened containers from licensed wholesalers and to  
10 sell such beer at retail for on-premises consumption only, in  
11 a room or rooms or place on the licensed premises at all times  
12 accessible to the use and accommodation of the general public,  
13 subject to the following conditions:

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

19 "(2) The proposed location of the premises shall  
20 not, at the time of the original application, be prohibited by  
21 a valid zoning ordinance or other ordinance in the valid  
22 exercise of police power by the governing body of the  
23 municipality or county in which the brewpub is located.

24 "(3) ~~Beer brewed by the A brewpub licensee shall not~~  
25 ~~be possessed, sold or dispensed except on the premises where~~  
26 ~~brewed, and shall not be packaged or contained in other than~~  
27 ~~barrels from which the beer is to be dispensed on the premises~~

1 ~~for consumption on the premises~~ may offer tours of its  
2 facility to the general public and may provide free samples,  
3 not to exceed six ounces, to be consumed on-premises as a way  
4 to promote its products.

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

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

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

17 "§28-4A-4.

18 "(a) In addition to the licenses provided for by  
19 this chapter and any county or municipal license, for any  
20 on-premises retail sales of beer brewed by the brewpub  
21 licensee and any free samples provided by the brewpub  
22 licensee, there is levied on the brewpub the privilege or  
23 excise taxes imposed by Sections 28-3-184 and 28-3-190. ~~Every~~  
24 For any on-premises retail sales of beer brewed by the brewpub  
25 licensee and any free samples provided by the brewpub  
26 licensee, the brewpub licensee shall file the tax returns, pay  
27 the taxes and perform all obligations imposed on wholesalers

1 at the times and places set forth therein. It shall be  
2 unlawful for any brewpub licensee who is required to pay the  
3 taxes so imposed in the first instance to fail or refuse to  
4 add to the sales price and collect from the purchaser the  
5 required amount of tax, it being the intent and purpose of  
6 this provision that each of the taxes levied is in fact a tax  
7 on the consumer, with the brewpub licensee who pays the tax in  
8 the first instance acting merely as an agent of the state for  
9 the collection and payment of the tax levied by Section  
10 28-3-184 and as an agent of the county or municipality for the  
11 collection and payment of the tax levied by Section 28-3-190.

12 "(b) The brewpub shall be required to keep and  
13 maintain all of the records otherwise required to be kept and  
14 maintained by manufacturer, wholesaler, and retailer  
15 licensees.

16 "(c) The brewpub shall appoint a licensed wholesaler  
17 designee in order to preserve Section 28-9-1. In addition, for  
18 the on-premises sales of beer brewed by the brewpub licensee,  
19 the brewpub shall be exempt from Sections 28-9-3 through  
20 28-9-11.

21 "§28-4A-6.

22 "The Legislature finds that it is in the best  
23 interest of the public welfare of the State of Alabama to  
24 ~~preserve and redevelop the original "downtown" municipal areas~~  
25 ~~of this state and to further promote the preservation and~~  
26 ~~redevelopment of historic buildings and sites~~ promote local  
27 industry in the state. The Legislature finds that an effective

1 way of facilitating ~~the urban redevelopment program and the~~  
2 ~~preservation of historic buildings and sites~~ small brewery  
3 businesses is by creating a single exception to the existing  
4 alcoholic beverage laws to authorize and permit the  
5 establishment of brewpubs ~~located in historic buildings and~~  
6 ~~sites in urban redevelopment areas of those municipalities~~  
7 ~~located within counties where the brewing of beer for~~  
8 ~~consumption by the public had historically been located.~~ The  
9 policy and intent of the Legislature in the enactment of this  
10 chapter is to promote the public welfare by further regulating  
11 and controlling alcoholic beverage transactions in Alabama  
12 under the control and supervision of the Alabama Alcoholic  
13 Beverage Control Board to accomplish this legislative purpose  
14 set forth herein."

15 Section 2. This act shall become effective  
16 immediately following its passage and approval by the  
17 Governor, or its otherwise becoming law.