

1 HB134
2 94280-1
3 By Representatives Fite and Hinshaw
4 RFD: Tourism and Travel
5 First Read: 05-FEB-08
6 PFD: 01/31/2008

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8 SYNOPSIS: This bill would authorize the production
9 and sale of small farm wines; would impose a
10 privilege and excise tax on the manufacture and
11 sale of such wines; and would authorize the direct
12 sale of such wines to consumers. The bill would
13 also authorize licensed wineries, including small
14 farm wineries to conduct wine festivals and make
15 direct sales to consumers at these festivals.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT
20

21 To authorize the production and sale of small farm
22 wines; to impose a privilege and excise tax on the manufacture
23 and sale of such wines; to authorize the direct sale of such
24 wine to consumers: and to authorize licensed wineries,
25 including small farm wineries to conduct wine festivals and
26 make direct sales to consumers at these festivals.
27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. As used in this act, the following terms
2 shall have the following meanings:

3 (1) BOARD. The Alabama Alcoholic Beverage Control
4 Board.

5 (2) PERSON. One or more natural persons, or a
6 corporation, partnership, or association.

7 (3) SMALL FARM WINE. Any product having an alcohol
8 content not to exceed 14 percent by volume and made in
9 accordance with the revenue laws of the United States, which
10 is produced at a small farm winery.

11 (4) SMALL FARM WINERY. A winery where the annual
12 production does not exceed 50,000 gallons, and 75 percent or
13 more of the berries, fruit, produce, and honey used in the
14 manufacture of such wine is produced by the small farm winery
15 permit holder upon land owned or leased by the permit holder
16 in the vicinity of his or her farm winery.

17 (5) WINERY. All licensed wineries, including small
18 farm wineries and manufactured licensed wineries.

19 Section 2. It shall be lawful to produce small farm
20 wine in the State of Alabama and to sell small farm wine
21 within the state. Every small farm winery in the State of
22 Alabama shall apply for a license as provided for in Section
23 28-3-140, Code of Alabama 1975.

24 Section 3. (a) Every small farm winery may make
25 sales directly to the board for state stores and directly to
26 consumers.

1 (b) A small farm winery may conduct wine tasting
2 provided that the conduct of the wine tasting is limited to
3 and directed toward the general public of the age of legal
4 consumption. The complimentary sample size shall be restricted
5 to a one-ounce serving with only one sample per person for
6 each type of wine.

7 Section 4. (a) Every winery may hold one wine
8 festival per calendar year. Each festival shall not exceed a
9 period of 72 hours.

10 (b) A winery participating in a festival authorized
11 by this section may transport, serve, and offer complimentary
12 samples of wines produced by the winery for tasting at the
13 festival. The complimentary sample size shall be restricted to
14 a one-ounce serving with only one sample per person for each
15 type of wine.

16 (c) A winery participating in a festival authorized
17 by this section may transport wine produced by the winery to
18 sell at the festival for consumption off premises.

19 (d) A winery, if asked in writing, may participate
20 with a non-profit association, state, county, and municipality
21 to conduct wine tasting pursuant to subsections (b) and (c).

22 Section 5. (a) There is hereby levied and imposed
23 for the privilege of engaging in the manufacture of small farm
24 wine an annual privilege license tax in the amount of one
25 hundred fifty dollars (\$150) which shall be paid to the board.
26 No county or municipality may levy a license fee or tax of any
27 nature, other than ad valorem taxes, on a small farm winery.

1 (b) There is levied and assessed an excise tax upon
2 each liter of small farm wine sold by a small farm winery to
3 consumers to be collected from the small farm winery in an
4 amount equal to forty-five cents (\$.45) per liter of which one
5 cent (\$.01) of the proceeds shall be paid into the State
6 Treasury by the board to the credit of the Alabama Primary
7 Health Care Association. Notwithstanding the foregoing, small
8 farm wine produced in Alabama for export and sale without this
9 state shall not be subject to an excise tax. The excise tax
10 provided for in this section shall be in lieu of all other
11 taxes imposed.

12 (c) The privilege tax imposed by subsection (a)
13 shall be collected in the same manner as presently provided by
14 law for the collection of other alcoholic beverage taxes. The
15 excise tax imposed by subsection (b) shall be reported monthly
16 by the small farm winery to the board on all sales made in
17 Alabama to the board, retailers, and consumers along with a
18 statement of gallonage produced during that month, and the
19 producer shall remit the tax due and owing with each report.

20 (d) If any fruit, produce, or honey used in the
21 manufacture of small farm wine is not available in Alabama due
22 to an act of God, the holder of a small farm winery permit may
23 apply to the board for permission to import such produce.

24 (e) All taxes imposed, levied, and collected under
25 this section shall be deposited in the same manner as are
26 other taxes collected by the board.

1 Section 6. The board may direct that stamps
2 purchased at cost from the board be affixed to the cartons,
3 bottles, or containers as a means of identification. The board
4 shall promulgate rules as needed to protect the revenue of
5 Alabama derived from the excise tax on small farm wine by
6 prescribing the procedure for issuing, distributing, and
7 affixing such tax stamps by qualified small farm wineries.

8 Section 7. All laws or parts of laws which conflict
9 with this act are repealed.

10 Section 8. The provisions of this act are
11 supplemental. It shall be construed in pari materia with other
12 laws regulating this subject; however, those laws or parts of
13 laws which are in direct conflict or inconsistent herewith are
14 hereby repealed.

15 Section 9. This act shall become effective
16 immediately following its passage and approval by the
17 Governor, or its otherwise becoming law.