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Alcoholic Beverage Study Commission
Alabama State House, Suite 207
11 South Union Street
Montgomery, AL 36130

Honorable Members of the Commission,

We greatly appreciate your interest in reforming Alabama law as it relates to the three-tier system and licensing. As the public hearings concluded last week, we wanted to summarize our interests and further clarify issues that were discussed at the hearings.

First, we want to again stress that the Alabama Brewers Guild supports the three-tier system. Every state has a three-tier system, but other states also have an environment that allows small brewers to grow and thrive. We are asking for Alabama law to be updated to be competitive with those states.

1. Allow small breweries to conduct direct sales for off-premises consumption

Wineries in Alabama are not limited in their direct sales privileges. However, we understand that some limits may be appropriate. We ask that you consider the following:

- **Should off-premise sales be limited to growlers?** According to our research, only Hawaii, Mississippi, and West Virginia limit off-premise sales to draft beer (kegs or growlers). As a promotional tool to encourage future sales, it is important that the brewery visitor be able to go home with a packaged product that he or she will see on the shelf at retailers.
- **Which breweries can conduct off-premise sales?** Of the 19 states that limit direct off-premise sales to small breweries, the average production allowance is a little more than 60,000 bbls. Neither Colorado nor North Carolina limit off-premise sales to small breweries.
- **How much can a brewery sell per transaction?** Of the 19 states that have transaction limits on direct off-premise sales, the average amount of beer allowed per-person, per-day is about 7.75 gallons. Neither Colorado nor North Carolina have transaction limits.
- **Can breweries undercut their retailers?** We are not interested in undercutting the retailers who sell more than 90% of our products. We will support “competitive pricing” language, such as found in South Carolina.¹

¹ See S.C. Code Ann. 61-4-1515(A)(5): “a brewery must sell the beer at the licensed premises at a price approximating retail prices generally charged for identical beverages in the county where the licensed premises are located.”

2. Allow small breweries to self-distribute

As 38 states allow for brewery self-distribution, this is an important consideration for ensuring that Alabama law is competitive with other states. However, it is also important to recognize that two types of self-distribution were discussed at the hearings.

2a. Exclusive self-distribution to permanent retail licensees

Alabama law requires that brewers enter into exclusive distribution agreements to sell beer in a given territory.² This exclusivity should be maintained if the commission accepts this proposal.

In other words, the small brewer would be allowed to self-distribute to permanent retail accounts in a given territory only until they reach a certain level of overall production *or* until they sign an exclusive territorial agreement with a licensed beer distributor.

2b. Non-exclusive self-distribution to special event retail licensees

Promotional events such as brewfests, food festivals, and nonprofit fundraisers are an important marketing tool for small brewers. Allowing small breweries to sell their products to these particular ABC retail licensees would give them greater control over their own promotion. It would also relieve a burden placed on beer distributors, who often have staff work on weekends to support these unprofitable activities.

This type of self-distribution would be non-exclusive. In other words, a brewery could sell its products to an ABC special event retail licensee while also having a territorial agreement with a distributor in the same geographic area.

3. Remove Alabama's unusual brewpub restrictions

Our original proposal asked the commission to replace the separate brewpub license with a more general craft brewer license that would allow manufacturer privileges and the retail sale of other alcohol. However the commission approaches this issue, it is our position that the following changes should be implemented:

- Allow brewpubs to sell beer for off-premises consumption.
- Allow brewpubs to package products in bottles or cans.^{3,4}
- Increase the 10,000 bbl production cap on brewpubs.³
- Remove the requirement that a brewpub licensee be located in a county where beer was brewed for public consumption prior to the ratification of the 18th Amendment to the United States Constitution.⁵
- Remove the requirement that a brewpub licensee be located in a historic building or site, or in a registered historic district, or in any economically distressed area.⁵
- Allow brewpub licensees to self-distribute their beer to retail licensees.

² See Ala. Code, Title 18, Ch. 8.

³ See Ala. Code § 28-4A-3(a)

⁴ See Ala. Code § 28-4A-3(a)(3)

⁵ See Ala. Code § 28-4A-3(a)(1)