

**Alcohol Beverage Study Commission
Public Comment Form***

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Please provide any background information you believe to be relevant along with any supporting information or research you would like the Commission to consider along with this Public Comment Form.

Back Forty Beer Company is the oldest & largest packaging brewery in the State of Alabama, with distribution in Alabama, Georgia, Mississippi, Florida, Tennessee, Washington D.C., & Canada. Back Forty Beer Company will also begin export shipments to Japan, Brazil, Sweden, and South Korea over the next 12 months.

Back Forty Beer Company was named the 2014 Alabama Small Manufacturer of the Year, and was also named one of the top 100 Small Businesses in the United States by the U.S. Chamber of Commerce. In addition, as founder of Back Forty Beer Company, Jason Wilson was recently named 2015 Young Entrepreneur of the Year by Auburn University.

Back Forty Beer Company currently employs 21 full time manufacturing professionals, with plans to add 10 additional staff members over the next 12 months. This number would increase substantially with the passage of the reforms being presented to this commission.

Please provide your specific thoughts on the following questions and use additional paper if necessary:

What are the issues that affect your business/industry relative to the three tier system?

When the Alabama Alcohol Code was last updated in 1980, there were no manufacturing operations in the State. As a result, many aspects of the revisions were written without any perspective from the manufacturing tier of the three tier system. This has created many unintended consequences for manufacturers of alcohol in Alabama, and continues to prevent Alabama breweries from competing on a level playing field. Alabama currently ranks 47th in breweries per capita (0.6 breweries per 100,000 Legal Drinking Age Residents), 36th in craft beer economic impact (\$238 Million), & 50th in economic impact per capita (\$68). Inversely, Alabama ranks 23rd in consumption of alcohol per legal drinking age adult. This production to consumption ratio means that the majority of beer already being consumed in Alabama is being produced outside of Alabama. This is a direct result of the extremely restrictive business environment for manufacturing breweries in Alabama. This trade imbalance is costing Alabama thousands of high paying manufacturing jobs and untold millions in tax revenue.

Alabama also currently has the highest excise tax rate in the United States, at \$33.17 per barrel of beer produced. For perspective, North Carolina has an excise tax rate of \$19.13 per barrel, and Colorado has an excise tax rate of \$2.48 per barrel.

In summary, Alabama has the highest excise tax rate in the United States, while also having the most restrictive business environment in the United States. This places a tremendous financial burden on manufacturers, while also dramatically limiting the manufacturer's ability to generate revenue.

1. Currently in Alabama, it is illegal for manufacturing breweries to sell product from their facility for off premise consumption. Alabama is the only State in the U.S. with this restriction.
2. Currently in Alabama, it is illegal for breweries to self distribute their products to retailers.
3. Currently in Alabama, it is illegal for breweries to serve any products other than those produced on site at their facility.
4. Currently in Alabama, it is illegal for Brew Pub licensees to sell packaged product, even if it were to be sold through a licensed wholesaler.
5. Currently in Alabama, it is illegal to hold investments in multiple tiers of the three tier system. This means an individual owning a brewery, cannot open a restaurant and acquire a retail alcohol license. This restriction also has the unintended consequence of limiting a growing brewery's access to investment dollars from those who are most familiar with their industry (i.e. owners of other successful retail and wholesale licensees).

What solutions would you suggest to solve the issues you identified?

1. Allow breweries to sell an unrestricted amount of packaged product, direct to consumers, from the licensed manufacturing premises. This increases revenue for manufacturers and allows for reinvestment in the brand. This reinvestment will create value for wholesalers and retailers as well.
2. Allow manufacturing licensees to sell a limited amount of product, directly to retailers, in instances where there is no existing wholesaler agreement in place or in instances where the wholesaler chooses not to provide service to a specific retailer or special event.
3. Allow manufacturing licensees to purchase, from wholesalers, products other than their own, to be sold at retail on the licensed premises. This will allow manufacturing breweries to offer customers a variety of Alabama made products while touring the facility.
4. Allow retail brew pubs to distribute, through a wholesaler, unrestricted amounts of product in draft or package form.
5. Allow limited minority investments amongst all licensees in the three tier system. Alternatively, this could also be accomplished by striking the portion of the code that prohibits spouses and family members from holding these investments.

Are there any specific issues relative to licensing that should be addressed in the law?

Many of the recommendations contained within this form can be implemented through the creation of a small manufacturing license. This license would apply specifically to breweries producing less than 60,000 barrels annually, and would have the intended effect of allowing Alabama's small manufacturers to grow, without jeopardizing the three tier system or the protections that the system provides to wholesalers and retailers.