

1 SB98
2 114481-2
3 By Senator Bedford
4 RFD: Finance and Taxation General Fund
5 First Read: 12-JAN-10
6 PFD: 01/11/2010

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 To amend Sections 28-1-3.1, 28-3-1, 28-3-53.2,
12 28-3-168, 28-3-187.1, 28-3A-8, and 28-7-16, Code of Alabama
13 1975, and to repeal Section 28-7-2, Code of Alabama 1975,
14 relating to the sale of fortified wine, to allow fortified
15 wine to be sold by any licensee of the Alcoholic Beverage
16 Control Board; to levy a tax on fortified wine; and to provide
17 for the distribution of the tax.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Sections 28-1-3.1, 28-3-1, 28-3-53.2,
20 28-3-168, 28-3-187.1, 28-3A-8, and 28-7-16, Code of Alabama
21 1975, are amended to read as follows:

22 "§28-1-3.1.

23 "(a) Any person 21 years of age or over who is on
24 active duty, in active reserve status or retired from the
25 armed forces of the United States, or the dependent of such
26 person, or is otherwise eligible to purchase alcoholic
27 beverages from military package or liquor stores, shall be

1 entitled to have in his possession, in his motor vehicle, or a
2 private residence or place of private residence or the
3 curtilage thereof in any county in this state, for his own
4 private use and not for resale, not more than the following
5 quantity of alcoholic beverages as defined in Section 28-3-1,
6 which beverages have been sold by a military liquor, package,
7 Class 6 or similar store or outlet: three liters of liquor and
8 one case of beer; or three liters of wine and one case of
9 beer; or two cases of beer; provided, however, that no
10 alcoholic beverages shall be kept, stored or possessed in the
11 passenger area of any vehicle, or in the view of any
12 passenger; and further provided that the beer and table wine
13 must first have been purchased by the military package or
14 liquor stores from licensed Alabama wholesalers, and liquor
15 ~~and fortified wine~~ must first have been purchased by the
16 military package and liquor stores from the Alabama ABC Board;
17 and shall have sufficient identification, including but not
18 limited to a sales receipt, to show that such alcoholic
19 beverages were purchased in Alabama and sold by such military
20 store or outlet; provided further that no rule or regulation
21 of the board shall require a wholesaler to affix stamps or
22 decals to beer or table wine.

23 "(b) It shall be unlawful for any person in
24 possession of alcoholic beverages as enumerated in subsection
25 (a) of this section to sell or offer to sell such alcoholic
26 beverages to anyone not authorized to purchase such state
27 untaxed beverages himself or to have in his possession at any

1 one time any amount of state untaxed alcoholic beverages in
2 excess of the quantity set forth in subsection (a) of this
3 section. Any person violating the provisions of this section
4 shall be guilty of a misdemeanor and shall be fined not less
5 than \$50.00 nor more than \$500.00, or imprisoned in the county
6 jail for a period not to exceed six months, either or both, at
7 the discretion of the court.

8 "§28-3-1.

9 The following words or phrases, whenever they appear
10 in this chapter, and in Alcoholic Beverage Licensing Code,
11 being Act No. 80-529, Acts of Alabama, 1980, as amended,
12 appearing as Chapter 3A, Title 28, as amended, and the Alabama
13 Table Wine Act, being Act 80-382, Acts of Alabama 1980, as
14 amended, appearing as Chapter 7, Title 28, as amended, unless
15 the context clearly indicates otherwise, shall have the
16 meaning ascribed to them in this section:

17 (1) ALCOHOLIC BEVERAGES. Any alcoholic, spirituous,
18 vinous, fermented or other alcoholic beverage, or combination
19 of liquors and mixed liquor, a part of which is spirituous,
20 vinous, fermented or otherwise alcoholic, and all drinks or
21 drinkable liquids, preparations or mixtures intended for
22 beverage purposes, which contain one-half of one percent or
23 more of alcohol by volume, and shall include liquor, beer, and
24 wine, ~~both fortified and table wine.~~

25 (2) ASSOCIATION. A partnership, limited partnership,
26 or any form of unincorporated enterprise owned by two or more
27 persons.

1 (3) BEER, or MALT OR BREWED BEVERAGES. Except as
2 otherwise provided in this subdivision, any beer, lager beer,
3 ale, porter, malt or brewed beverage, or similar fermented
4 malt liquor containing one-half of one percent or more of
5 alcohol by volume and not in excess of thirteen and
6 nine-tenths percent by volume, by whatever name the same may
7 be called. ~~Beer or malt or brewed beverages sold by the holder~~
8 ~~of a retail beer license for off-premises consumption pursuant~~
9 ~~to Section 28-3A-17 shall only include any beer, lager beer,~~
10 ~~ale, porter, malt or brewed beverage, or similar fermented~~
11 ~~malt liquor containing one-half of one percent or more of~~
12 ~~alcohol by volume and not in excess of five percent alcohol by~~
13 ~~weight and six percent by volume, by whatever name the same~~
14 ~~may be called.~~

15 (4) BOARD. The Alcoholic Beverage Control Board.

16 (5) CARTON. The package or container or containers
17 in which alcoholic beverages are originally packaged for
18 shipment to market by the manufacturer or its designated
19 representatives or the importer.

20 (6) CONTAINER. The single bottle, can, keg, bag or
21 other receptacle, not a carton, in which alcoholic beverages
22 are originally packaged for the market by the manufacturer or
23 importer and from which the alcoholic beverage is consumed by
24 or dispensed to the public.

25 (7) CLUB.

26 a. Class I. A corporation or association organized
27 or formed in good faith by authority of law and which must

1 have at least 150 paid-up members. It must be the owner,
2 lessee or occupant of an establishment operated solely for the
3 objects of a national, social, patriotic, political or
4 athletic nature or the like, but not for pecuniary gain, and
5 the property as well as the advantages of which, belong to all
6 the members and which maintains an establishment provided with
7 special space and accommodations where, in consideration of
8 payment, food with or without lodging is habitually served.
9 The club shall hold regular meetings, continue its business
10 through officers regularly elected, admit members by written
11 application, investigation and ballot and charge and collect
12 dues from elected members.

13 b. Class II. A corporation or association organized
14 or formed in good faith by authority of law and which must
15 have at least 100 paid-up members. It must be the owner,
16 lessee or occupant of an establishment operated solely for the
17 objects of a national, social, patriotic, political or
18 athletic nature or the like. The club shall hold regular
19 meetings, continue its business through officers regularly
20 elected, admit members by written application, investigation
21 and ballot and charge and collect dues from elected members.

22 (8) CORPORATION. A corporation or joint stock
23 association organized under the laws of this state, the United
24 States, or any other state, territory or foreign country, or
25 dependency.

26 (9) DRY COUNTY. Any county which by a majority of
27 those voting voted in the negative in an election heretofore

1 held under the applicable statutes at the time of said
2 election or may hereafter vote in the negative in an election
3 or special method referendum hereafter held in accordance with
4 the provisions of Chapter 2 of this title, or held in
5 accordance with the provisions of any act hereafter enacted
6 permitting such election.

7 (10) DRY MUNICIPALITY. Any municipality within a wet
8 county which has, by its governing body or by a majority of
9 those voting in a municipal election heretofore held in
10 accordance with the provisions of Section 28-2-22, or in a
11 municipal option election heretofore or hereafter held in
12 accordance with the provisions of Act 84-408, Acts of Alabama
13 1984, appearing as Chapter 2A of this title, or any act
14 hereafter enacted permitting municipal option election, voted
15 to exclude the sale of alcoholic beverages within the
16 corporate limits of said municipality.

17 (11) GENERAL WELFARE PURPOSES.

18 a. The administration of public assistance as set
19 out in Sections 38-2-5 and 38-4-1;

20 b. Services, including supplementation and
21 supplementary services under the federal Social Security Act,
22 to or on behalf of persons to whom such public assistance may
23 be given under said Sections 38-2-5 and 38-4-1;

24 c. Service to and on behalf of dependent, neglected
25 or delinquent children; and

26 d. Investigative and referral services to and on
27 behalf of needy persons.

1 "(12) HEARING COMMISSION. A body appointed by the
2 board to hear and decide all contested license applications
3 and all disciplinary charges against any licensee for
4 violation of this title or the regulations of the board.

5 (13) HOTEL. A building or buildings held out to the
6 public for housing accommodations of travelers or transients,
7 and shall include motel, but shall not include a rooming house
8 or boarding house.

9 (14) IMPORTER. Any person, association or
10 corporation engaged in importing alcoholic beverages, liquor,
11 wine or beer, manufactured outside of the United States of
12 America into this state or for sale or distribution in this
13 state, or to the board or to a licensee of the board.

14 (15) LIQUOR. Any alcoholic, spirituous, vinous,
15 fermented, or other alcoholic beverage, or combination of
16 liquors and mixed liquor, a part of which is spirituous,
17 fermented, vinous or otherwise alcoholic, and all drinks or
18 drinkable liquids, preparations or mixtures intended for
19 beverage purposes, which contain one-half of one percent or
20 more of alcohol by volume, except beer and table wine.

21 (16) LIQUOR STORE. A liquor store operated by the
22 board, where alcoholic beverages other than beer are
23 authorized to be sold in unopened containers.

24 (17) MANUFACTURER. Any person, association or
25 corporation engaged in the producing, bottling, manufacturing,
26 distilling, rectifying or compounding of alcoholic beverages,

1 liquor, beer or wine in this state or for sale or distribution
2 in this state or to the board or to a licensee of the board.

3 (18) MINOR. Any person under 21 years of age, except
4 a person 19 years of age or older prior to October 1, 1985, is
5 not a minor; provided, however, in the event Section 28-1-5,
6 shall be repealed or otherwise shall be no longer in effect,
7 thereafter the provisions of Section 26-1-1, shall govern.

8 (19) MUNICIPALITY. Any incorporated city or town of
9 this state to include its police jurisdiction.

10 (20) PERSON. Every natural person, association or
11 corporation. Whenever used in a clause prescribing or imposing
12 a fine or imprisonment, or both, such term as applied to
13 "association" shall mean the partners or members thereof and
14 as applied to "corporation" shall mean the officers thereof,
15 except as to incorporated clubs the term "person" shall mean
16 such individual or individuals who, under the bylaws of such
17 clubs, shall have jurisdiction over the possession and sale of
18 liquor therein.

19 (21) POPULATION. The population according to the
20 last preceding or any subsequent decennial census of the
21 United States, except where a municipality is incorporated
22 subsequent to the last census, in which event, its population
23 until the next decennial census shall be the population of
24 said municipality as determined by the judge of probate of
25 said county as the official population on the date of its
26 incorporation.

1 (22) RESTAURANT. A reputable place licensed as a
2 restaurant, operated by a responsible person of good
3 reputation and habitually and principally used for the purpose
4 of preparing and serving meals for the public to consume on
5 the premises.

6 (23) MEAL. A diversified selection of food some of
7 which is not susceptible of being consumed in the absence of
8 at least some articles of tableware and which cannot be
9 conveniently consumed while one is standing or walking about.

10 (24) RETAILER. Any person licensed by the board to
11 engage in the retail sale of any alcoholic beverages to the
12 consumer.

13 (25) SALE or SELL. Any transfer of liquor, wine or
14 beer for a consideration, and any gift in connection with, or
15 as a part of, a transfer of property other than liquor, wine
16 or beer for a consideration.

17 (26) SELLING PRICE. The total marked-up price of
18 spirituous or vinous liquors sold by the board, exclusive of
19 taxes levied thereon.

20 (27) UNOPENED CONTAINER. A container containing
21 alcoholic beverages, which has not been opened or unsealed
22 subsequent to filling and sealing by the manufacturer or
23 importer.

24 (28) WET COUNTY. Any county which by a majority of
25 those voting voted in the affirmative in an election
26 heretofore held in accordance with the statutes applicable at
27 the time of said election or may hereafter vote in the

1 affirmative in an election or special method referendum held
2 in accordance with the provisions of Chapter 2 of this title,
3 or other statutes applicable at the time of said election.

4 (29) WET MUNICIPALITY. Any municipality in a dry
5 county which by a majority of those voting voted in the
6 affirmative in a municipal option election heretofore or
7 hereafter held in accordance with the provisions of Act
8 84-408, Acts of Alabama 1984, appearing as Chapter 2A of this
9 title, as amended, or any act hereafter enacted permitting
10 municipal option election, or any municipality which became
11 wet by vote of the governing body or by the voters of the
12 municipality heretofore or hereafter held under the special
13 method referendum provisions of Section 28-2-22, or as
14 hereafter provided, where the county has become dry subsequent
15 to the elected wet status of the municipality.

16 (30) WHOLESALER. Any person licensed by the board to
17 engage in the sale and distribution of table wine and beer, or
18 either of them, within this state, at wholesale only, to be
19 sold by export or to retail licensees or other wholesale
20 licensees or others within this state lawfully authorized to
21 sell table wine and beer, or either of them, for the purpose
22 of resale only.

23 (31) WINE. All beverages made from the fermentation
24 of fruits, berries, or grapes, with or without added spirits,
25 and produced in accordance with the laws and regulations of
26 the United States, containing not more than 24 percent alcohol
27 by volume, and shall include all sparkling wines, carbonated

1 wines, special natural wines, rectified wines, vermouths,
2 vinous beverages, vinous liquors, and like products, including
3 restored or unrestored pure condensed juice.

4 ~~(32) FORTIFIED WINE or VINOUS LIQUOR. Any wine~~
5 ~~containing more than 16.5 percent alcohol by volume but not~~
6 ~~more than 24 percent. Fortified wine is vinous liquor.~~

7 ~~(33)~~ (32) TABLE WINE. Except as otherwise provided
8 in this subdivision, any wine containing not more than ~~16.5~~ 24
9 percent alcohol by volume. Table wine does not include any
10 wine containing more than 16.5 percent alcohol by volume that
11 is made with herbs or flavors, except vermouth, or is an
12 imitation or other than standard wine. ~~Table wine sold at a~~
13 ~~convenience store by the holder of a retail table wine license~~
14 ~~for off-premises consumption, pursuant to Section 28-3A-15,~~
15 ~~shall only include wine containing not more than 14.9 percent~~
16 ~~alcohol by volume. Table wine is not liquor, spirituous or~~
17 ~~vinous.~~

18 ~~(34)~~ (33) BRANDY. All beverages which are an
19 alcoholic distillate from the fermented juice, mash, or wine
20 of fruit, or from the residue thereof, produced in such manner
21 that the distillate possesses the taste, aroma, and
22 characteristics generally attributed to the beverage, as
23 bottled at not less than 80 degree proof.

24 ~~(35) CONVENIENCE STORE. A small store that is~~
25 ~~engaged primarily in the quick retail sale of motor fuel and a~~
26 ~~limited quantity and variety of consumable items in their~~

1 ~~original containers for off-premises consumption. The term~~
2 ~~does not include any of the following:~~

3 ~~a. A large store engaged primarily in, and deriving~~
4 ~~a substantial amount of gross revenue from, the retail sale of~~
5 ~~food and dry goods for off-premises consumption, commonly~~
6 ~~known as a grocery store or department store.~~

7 ~~b. A specialty store engaged primarily in, and~~
8 ~~deriving a substantial amount of gross revenue from, the~~
9 ~~retail sale of wine for on-premises or off-premises~~
10 ~~consumption.~~

11 "\$28-3-53.2.

12 "(a) The word "board," wherever used in this
13 section, shall mean the Alabama Alcoholic Beverage Control
14 Board provided for in Chapter 3, Title 28. The term "mark up,"
15 wherever used in this section shall mean the percentage amount
16 added to cost plus freight on spirituous or vinous liquors
17 sold by the "board," exclusive of taxes heretofore levied with
18 respect thereto.

19 "(b) The total amount of the additional "mark up" on
20 cost of merchandise, levied by the Alcoholic Beverage Control
21 Board subsequent to June 30, 1983, shall be designated to the
22 credit of the General Fund of the state.

23 "(c) The board shall be prohibited from increasing
24 the mark up on wholesale case lot sales of liquor ~~and~~
25 ~~fortified wine~~ above 16.99 percent of the cost plus freight
26 subsequent to December 1, 2004.

27 "\$28-3-168.

1 "(a) For the purposes of this section, the following
2 words and phrases shall have the following meanings:

3 "(1) MANUFACTURER. Any person, association, or
4 corporation engaged in the producing, bottling, manufacturing,
5 distilling, rectifying, or compounding of liquor, alcohol,
6 malt and brewed beverages, or vinous beverages.

7 "(2) WINE WHOLESALER, DISTRIBUTOR, OR JOBBER. Any
8 person, association, or corporation licensed by the board to
9 engage in the sale and distribution of table wine within
10 counties in which this chapter applies, at wholesale only, to
11 be sold for export or to licensees within this state
12 authorized by their licenses to sell wine.

13 "(3) WINE RETAILER. Persons, corporations, or
14 associations licensed by the board to engage in the retail
15 sale of table wine to be consumed off the premises and who do
16 not possess a state liquor license.

17 "(4) TABLE WINE. ~~Except as otherwise provided in~~
18 ~~this subdivision, any~~ Any wine containing not more than 16.5
19 percent alcohol by volume. ~~Table wine sold at a convenience~~
20 ~~store by the holder of a retail table wine license for~~
21 ~~off-premises consumption, pursuant to Section 28-3A-15, shall~~
22 ~~only include wine containing not more than 14.9 percent~~
23 ~~alcohol by volume.~~

24 "(b) In all counties having a population of not less
25 than 300,000 nor more than 500,000 according to the 1970 or
26 any subsequent federal decennial census, table wines may be
27 sold at retail by any licensed wine retailer for off-premises

1 consumption only. A wine wholesaler may sell to a wine
2 retailer table wines that have been purchased from a licensed
3 manufacturer.

4 "(c) In all counties having a population of not less
5 than 500,000 according to the 1970 or any subsequent federal
6 decennial census, table wines may be sold at retail by any
7 licensed wine retailer for off-premises consumption only. A
8 wine wholesaler may sell to a wine retailer table wines that
9 have been purchased from a licensed manufacturer.

10 "(d) In all counties having a population of not less
11 than 115,000 nor more than 130,000 according to the 1970 or
12 any subsequent federal decennial census, table wines may be
13 sold at retail by any licensed wine retailer for off-premises
14 consumption only. A wine wholesaler may sell to a wine
15 retailer table wines that have been purchased from a licensed
16 manufacturer.

17 "(e) A license may not be issued by the board unless
18 the applicant is a citizen of the United States or legally
19 present in this state.

20 "§28-3-187.1.

21 "Any laws or parts of laws to the contrary
22 notwithstanding, no manufacturer, importer or wholesaler
23 licensee of ~~fortified wine and~~ vinous liquor and brandy, as
24 defined by Section 28-3-1, shall be required to comply with
25 the ~~provisions of Section 28-3-187, nor any other~~ provisions
26 of laws, rules, or regulations relating to the state labeling

1 of certain containers of alcoholic beverages by such
2 manufacturer, importer, or wholesaler licensees.

3 "§28-3A-8.

4 "Upon applicant's compliance with the provisions of
5 this chapter and the regulations made thereunder, the board
6 shall issue to applicant a liquor wholesale license which
7 shall authorize the licensee to import and receive shipments
8 of liquor or wine from outside the state from licensed
9 manufacturers and to sell at wholesale or distribute liquor or
10 wine to the board or as authorized by the board except a
11 liquor wholesale licensee may not sell liquor ~~or fortified~~
12 ~~wine~~ to retail licensees of the board. Sales shall be in
13 original packages or containers as prepared for the market by
14 the manufacturer or bottler. No person shall sell at wholesale
15 or distribute liquor or wine within this state to the board or
16 as authorized by the board unless such person shall be issued
17 a liquor wholesale license by the board."

18 "§28-7-16.

19 "(a) Levy. There is hereby levied in addition to the
20 license taxes provided for by this chapter and municipal and
21 county license taxes and in addition to any marked-up price
22 made by the board on wine sold by the board a privilege or
23 excise tax measured by and graduated in accordance with the
24 volume of sales of table wine containing not more than sixteen
25 and one-half percent (16.5%) alcohol by volume and shall be an
26 amount equal to forty-five cents (\$.45) per liter of table
27 wine containing not more than sixteen and one-half percent

1 (16.5%) alcohol by volume sold to the wholesale licensee or
2 board, to be collected from the purchaser by the board or by a
3 licensed retailer.

4 (b) Collection, Monthly Return, Remittance, Right to
5 Examine Books and Records. (1) The tax levied by subsection
6 (a) shall be added to the sales price of all table wine
7 containing not more than sixteen and one-half percent (16.5%)
8 alcohol by volume sold and shall be collected from the
9 purchasers. The tax shall be collected in the first instance
10 from the wholesaler where table wine containing not more than
11 sixteen and one-half percent (16.5%) alcohol by volume is sold
12 or handled by wholesale licensees, and by the board from
13 whomever makes sales when table wine containing not more than
14 sixteen and one-half percent (16.5%) alcohol by volume is sold
15 by the board. It shall be unlawful for any person who is
16 required to pay the tax in the first instance to fail or
17 refuse to add to the sales price and collect from the
18 purchaser the required amount of tax, it being the intent and
19 purpose of this provision that the tax levied is in fact a
20 levy on the consumer. The person who pays the tax in the first
21 instance is acting as an agent of the state for the collection
22 and payment of the tax and as such may not collect a tax on
23 table wine containing not more than sixteen and one-half
24 percent (16.5%) alcohol by volume for any other level of
25 government.

26 (2) The tax hereby levied shall be collected by a
27 monthly return, which shall be filed by the wholesale

1 licensees as follows: A monthly return filed with the board
2 not later than the 15th day of the second month following the
3 month of receipt of table wine containing not more than
4 sixteen and one-half percent (16.5%) alcohol by volume by the
5 wholesaler on a form prescribed by the board showing receipts
6 by the wholesalers from manufacturer, importer, or other
7 wholesaler licensees during the month of receipt and the taxes
8 due thereon at the rate of thirty-eight cents (\$.38) per liter
9 of table wine containing not more than sixteen and one-half
10 percent (16.5%) alcohol by volume sold to the wholesale
11 licensee or board; the taxes due at such rate shall be
12 remitted to the board along with the return; a monthly return
13 filed with the county or municipality within which the wine is
14 sold at retail filed not later than the 15th day of each month
15 showing sales by wholesalers during the preceding month and
16 the county or municipality in which sold and the taxes due
17 thereon at the rate of seven cents (\$.07) per liter of table
18 wine containing not more than sixteen and one-half percent
19 (16.5%) alcohol by volume sold; and the taxes due at such rate
20 shall be remitted to the county or municipality along with the
21 return.

22 (3) The tax hereby levied shall be collected by the
23 board on the table wine containing not more than sixteen and
24 one-half percent (16.5%) alcohol by volume sold by the board
25 and shall be paid as follows: Taxes at the rate of
26 thirty-eight cents (\$.38) per liter of table wine containing
27 not more than sixteen and one-half percent (16.5%) alcohol by

1 volume sold shall be remitted by the board to the State
2 Treasurer and taxes at the rate of seven cents (\$.07) per
3 liter of table wine containing not more than sixteen and
4 one-half percent (16.5%) alcohol by volume sold shall be
5 remitted by the board to the county or municipality within
6 which the wine was sold at retail not later than the last day
7 of the month following the month of sale, as set forth in
8 subsection (c).

9 (4) The board and the governing body of each county
10 and municipality served by the wholesaler shall have the
11 authority to examine the books and records of any person who
12 sells, stores, or receives for the purpose of distribution any
13 table wine, containing not more than sixteen and one-half
14 percent (16.5%) alcohol by volume to determine the accuracy of
15 any return required to be filed with it.

16 (c) Disposition of proceeds. The proceeds of the tax
17 levied by subsection (a) shall be paid and distributed as
18 follows:

19 (1) Thirty-eight cents (\$.38) per liter of table
20 wine containing not more than sixteen and one-half percent
21 (16.5%) alcohol by volume sold shall be collected by the board
22 on its sales or paid to the board by wholesale licensees on
23 their sales, and by the board paid to the State Treasurer to
24 be credited as net profits from operation of the board to be
25 distributed as provided by law.

26 (2) Seven cents (\$.07) per liter of table wine
27 containing not more than sixteen and one-half percent (16.5%)

1 alcohol by volume sold shall be paid by the board on its sales
2 or by wholesale licensees on their sales, either into the
3 treasury of the municipality in which the table wine was sold
4 at retail within its corporate limits, or, where sold outside
5 the corporate limits of any municipality, into the treasury of
6 the county in which the table wine was sold at retail.

7 (d) There is hereby levied in addition to the
8 license taxes provided for by this chapter and municipal and
9 county license taxes and in addition to any marked-up price
10 made by the board on wine sold by the board a privilege or
11 excise tax measured by and graduated in accordance with the
12 volume of sales of table wine containing more than sixteen and
13 one-half percent (16.5%) alcohol by volume. The tax shall be
14 an amount equal to two dollars and forty-two cents (\$2.42) per
15 liter of table wine containing more than sixteen and one-half
16 percent (16.5%) alcohol by volume sold to the wholesale
17 licensee or board, to be collected from the purchaser by the
18 board or by a licensed retailer.

19 (e) Collection, Monthly Return, Remittance, Right to
20 Examine Books and Records. (1) The tax levied by subsection
21 (d) shall be added to the sales price of all table wine
22 containing more than sixteen and one-half percent (16.5%)
23 alcohol by volume sold and shall be collected from the
24 purchasers. The tax shall be collected in the first instance
25 from the wholesaler where table wine containing more than
26 sixteen and one-half percent (16.5%) alcohol by volume is sold
27 or handled by wholesale licensees, and by the board from

1 whomever makes sales when table wine containing more than
2 sixteen and one-half percent (16.5%) alcohol by volume is sold
3 by the board. It shall be unlawful for any person who is
4 required to pay the tax in the first instance to fail or
5 refuse to add to the sales price and collect from the
6 purchaser the required amount of tax, it being the intent and
7 purpose of this provision that the tax levied is in fact a
8 levy on the consumer. The person who pays the tax in the first
9 instance is acting as an agent of the state for the collection
10 and payment of the tax and as such may not collect a tax on
11 table wine containing more than sixteen and one-half percent
12 (16.5%) alcohol by volume for any other level of government.

13 (2) The tax levied in subsection (d) shall be
14 collected by a monthly return, which shall be filed by the
15 wholesale licensees with the board not later than the 15th day
16 of the second month following the month of receipt of table
17 wine containing more than sixteen and one-half percent (16.5%)
18 alcohol by volume by the wholesaler on a form prescribed by
19 the board showing receipts by the wholesalers from
20 manufacturer, importer, or other wholesaler licensees during
21 the month of receipt and the taxes due thereon at the rate of
22 two dollars and forty-two cents (\$2.42) per liter of table
23 wine containing more than sixteen and one-half percent (16.5%)
24 alcohol by volume sold to the wholesale licensee or board; the
25 taxes due at such rate shall be remitted to the board along
26 with the return.

1 (3) The tax levied in subsection (d) shall be
2 collected by the board on table wine containing more than
3 sixteen and one-half percent (16.5%) alcohol by volume sold by
4 the board and shall be paid as follows: Taxes at the rate of
5 two dollars and forty-two cents (\$2.42) per liter of table
6 wine containing more than sixteen and one-half percent (16.5%)
7 alcohol by volume sold shall be remitted by the board to the
8 State Treasurer.

9 (4) The board shall have the authority to examine
10 the books and records of any person who sells, stores, or
11 receives for the purpose of distribution any table wine
12 containing more than sixteen and one-half percent (16.5%)
13 alcohol by volume, to determine the accuracy of any return
14 required to be filed with it.

15 (f) Disposition of proceeds. The proceeds of the tax
16 levied by subsection (d) shall be paid and distributed as
17 follows:

18 (1) Thirty-seven percent (37%) to the Alcoholic
19 Beverage Control Board.

20 (2) Thirty-four percent (34%) to the State General
21 Fund.

22 (3) Twenty and eight-tenths percent (20.8%) to the
23 Department of Human Resources.

24 (4) Eight and two-tenths percent (8.2%) to the
25 Department of Mental Health.

26 ~~(d)~~ (e) Taxes exclusive. The ~~tax~~ taxes herein levied
27 is are exclusive and shall be in lieu of all other and

1 additional taxes and licenses of the state, county, or
2 municipality, imposed on or measured by the sale or volume of
3 sale of table wine; provided, that nothing herein contained
4 shall be construed to exempt the retail sale of table wine
5 from the levy of tax on general retail sales by the state,
6 county, or municipality in the nature of, or in lieu of, a
7 general sales tax.

8 ~~(e)~~ (f) Trade between wholesalers exempt. The ~~tax~~
9 taxes levied by subsections (a) and (d) shall not be imposed
10 upon the sale, trade, or barter of table wine by one licensed
11 wholesaler to another wholesaler licensed to sell and handle
12 table wine in this state, which transaction is hereby made
13 exempt from said tax; provided, however, the board may require
14 written reporting of any such transaction in the form as the
15 board may prescribe.

16 Section 2. Section 28-7-2, Code of Alabama 1975, is
17 repealed.

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

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Senate

Read for the first time and referred to the Senate committee on Finance and Taxation General Fund ..	12-JAN-10
Read for the second time and placed on the calen- dar	02-FEB-10
Read for the third time and passed as amended ...	01-APR-10

Yeas 14
Nays 7

McDowell Lee
Secretary