

1 HB408
2 124106-2
3 By Representative Robinson (O)
4 RFD: Economic Development and Tourism
5 First Read: 31-MAR-11

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8 SYNOPSIS: Under existing law, all beer, except draft
9 or keg beer, must be sold by retailers in
10 containers not to exceed one pint or 16 ounces.

11 This bill would allow beer to be sold in
12 containers not to exceed 25.4 ounces.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

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18 To amend Section 28-3A-23, Code of Alabama 1975,
19 relating to the size of containers of beer sold at retail; to
20 allow beer to be sold in containers not to exceed 25.4 ounces.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Section 28-3A-23, Code of Alabama 1975,
23 is amended to read as follows:

24 "§28-3A-23.

25 "(a) No license prescribed in this code shall be
26 issued or renewed until the provisions of this code have been

1 complied with and the filing and license fees other than those
2 levied by a municipality are paid to the board.

3 "(b) Licenses shall be granted and issued by the
4 board only to reputable individuals, to associations whose
5 members are reputable individuals, or to reputable
6 corporations organized under the laws of the State of Alabama
7 or duly qualified thereunder to do business in Alabama, or, in
8 the case of manufacturers, duly registered under the laws of
9 Alabama, and then only when it appears that all officers and
10 directors of the corporation are reputable individuals.

11 "(c) Every license issued under this code shall be
12 constantly and conspicuously displayed on the licensed
13 premises.

14 "(d) Each retail liquor license application must be
15 approved by the governing authority of the municipality if the
16 retailer is located in a municipality, or by the county
17 commission if the retailer is located in the county and
18 outside the limits of the municipality before the board shall
19 have authority to grant the license.

20 "(e) Any retailer may be granted licenses to
21 maintain, operate, or conduct any number of places for the
22 sale of alcoholic beverages, but a separate license must be
23 secured for each place where alcoholic beverages are sold. No
24 retail license issued under this code shall be used for more
25 than one premise, nor for separate types of operation on the
26 same premise. Provided, however, any such licensed retail
27 operation existing on May 14, 2009, and operating based on

1 dual licenses, both a club or lounge license and a restaurant
2 license, on the same premises shall be exempt from the
3 requirement of the preceding sentence and may continue to
4 operate under such dual licenses. The provisions of any rule
5 promulgated by the board relating to the requirements
6 concerning such dual licenses, both a club or lounge license
7 and a restaurant license, shall not apply to any such retail
8 operation existing on May 14, 2009. The aforementioned rules
9 shall include, but not be limited to, the maintenance of
10 separate books, separate entrances, and separate inventories.
11 Each premise must have a separate retail license. Where more
12 than one retail operation is located within the same building,
13 each such operation under a separate or different ownership is
14 required to obtain a separate retail license; and where more
15 than one type of retail operation located within the same
16 building is operated by the same licensee, such licensee must
17 have a license for each type of retail operation. Provided,
18 there shall be no licenses issued by the board for the sale of
19 liquor, beer or wine by rolling stores.

20 "(f) No retailer shall sell any alcoholic beverages
21 for consumption on the licensed premises except in a room or
22 rooms or place on the licensed premises at all times
23 accessible to the use and accommodation of the general public;
24 but this section shall not be interpreted to prevent a hotel
25 or club licensee from selling such beverages in any room of
26 such hotel or club house occupied by a bona fide registered

1 guest or member or private party entitled to purchase the
2 same.

3 "(g) All beer, except draft or keg beer, sold by
4 retailers must be sold or dispensed in bottles, cans, or other
5 containers not to exceed ~~one pint or 16~~ 25.4 ounces. All wine
6 sold by retailers for off-premise consumption must be sold or
7 dispensed in bottles or other containers in accordance with
8 the standards of fill specified in the then effective
9 standards of fill for wine prescribed by the U.S. Treasury
10 Department.

11 "(h) Draft or keg beer may be sold or dispensed
12 within this state within those counties in which and in the
13 manner in which the sale of draft or keg beer was authorized
14 by law on September 30, 1980 or in which the sale of draft or
15 keg beer is hereafter authorized by law; provided in rural
16 communities with a predominantly foreign population, after the
17 payment of the tax imposed by this title, draft or keg beer
18 may be sold or dispensed by special permit from the board,
19 when, in the judgment of the board, the use and consumption of
20 draft or keg beer is in accordance with the habit and customs
21 of the people of any such rural community; provided further,
22 the board may, in its discretion, grant to any civic center
23 authority or its franchisee or concessionaire, to which the
24 board may have issued or may simultaneously issue a retail
25 license under the provisions of this code, a revocable
26 temporary permit to sell or dispense in any part of its civic
27 center, for consumption therein, draft or keg beer. Either

1 such permit shall be promptly revoked by the board if, in its
2 judgment, the same tends to create intemperance or is
3 prejudicial to the welfare, health, peace, temperance, and
4 safety of the people of the community or of the state.

5 "(i) No importer shall sell alcoholic beverages to
6 any person other than a wholesaler licensee, or sell to a
7 wholesaler licensee any brand or brands of alcoholic beverages
8 for sale or distribution in this state, except where the
9 importer has been granted written authorization from the
10 manufacturer thereof to import and sell the brand or brands to
11 be sold in the State of Alabama, which authorization is on
12 file with the board.

13 "(j) No wholesaler shall maintain or operate any
14 place where sales are made other than that for which the
15 wholesale license is granted; provided, however, a wholesaler
16 may be licensed to sell and distribute liquor, wine and beer.
17 No wholesaler shall maintain any place for the storage of
18 liquor, wine or beer unless the same has been approved by the
19 board. No wholesaler license shall be issued for any premises
20 in any part of which there is operated any retail license for
21 the sale of alcoholic beverages.

22 "(k) Licenses issued under this code may not be
23 assigned. The board is hereby authorized to transfer any
24 license from one person to another, or from one place to
25 another within the same governing jurisdiction, or both, as
26 the board may determine; but no transfers shall be made to a
27 person who would not have been eligible to receive the license

1 originally, nor for the transaction of business at a place for
2 which the license could not originally have been issued
3 lawfully.

4 "(l) Every applicant for a transfer of a license
5 shall file a written application with the board within such
6 time as the board shall fix in its regulations. Whenever any
7 license is transferred, there shall be collected a filing fee
8 of \$50.00, to be paid to the board, and the board shall pay
9 such fee into the State Treasury to the credit of the Beer Tax
10 and License Fund of the board.

11 "(m) In the event that any person to whom a license
12 shall have been issued under the terms of this code shall
13 become insolvent, make an assignment for the benefit of
14 creditors, be adjudicated a bankrupt by either voluntary or
15 involuntary action, the license of such person shall
16 immediately terminate and be cancelled without any action on
17 the part of the board, and there shall be no refund made, or
18 credit given, for the unused portion of the license fee for
19 the remainder of the license year for which said license was
20 granted. Thereafter no license shall be issued by the board
21 for the premises, wherein said license was conducted, to any
22 assignee, committee, trustee, receiver, or successor of such
23 licensee until a hearing has been held by the board as in the
24 case of a new application for license. In all such cases, the
25 board shall have the sole and final discretion as to the
26 propriety of the issuance of a license for such premises, and
27 the time it shall issue, and the period for which it shall be

1 issued, and shall have the further power to impose conditions
2 under which said licensed premises shall be conducted."

3 Section 2. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.