

1 HB101
2 125466-2
3 By Representative Jones
4 RFD: Economic Development and Tourism
5 First Read: 07-FEB-12
6 PFD: 02/02/2012

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ENROLLED, An Act,

To amend Section 28-3A-25, Code of Alabama 1975, relating to unlawful acts and offenses under the alcoholic beverage licensing code, to delete the prohibition against any licensee of the Alcoholic Beverage Control Board, or the servant, agent, or employee of a licensee, from being employed by any other licensee engaged in the manufacture, storage, transportation, or sale of alcoholic beverages.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 28-3A-25 of the Code of Alabama 1975, is amended to read as follows:

"§28-3A-25.

"(a) It shall be unlawful:

"(1) For any manufacturer, importer, or wholesaler, or the servants, agents, or employees of the same, to sell, trade, or barter in alcoholic beverages between the hours of nine o'clock P.M. of any Saturday and two o'clock A.M. of the following Monday.

"(2) For any wholesaler or the servants, agents, or employees of the wholesaler to sell alcoholic beverages, to other than wholesale or retail licensees or others within this state lawfully authorized to sell alcoholic beverages, or to sell for export.

1 "(3) For any person, licensee, or the board either
2 directly or by the servants, agents, or employees of the same,
3 or for any servant, agent, or employee of the same, to sell,
4 deliver, furnish, or give away alcoholic beverages to any
5 person under the legal drinking age, as defined in Section
6 28-1-5, or to permit any person under the legal drinking age,
7 as defined in Section 28-1-5, to drink, consume, or possess
8 any alcoholic beverages on any licensee's premises.

9 "(4) For any person to consume alcoholic beverages
10 on the premises of any state liquor store or any off-premises
11 licensee, or to allow alcoholic beverages to be consumed on
12 the premises of any state liquor store or any off-premises
13 licensee.

14 "(5) For any licensee to fail to keep for a period
15 of at least three years, complete and truthful records
16 covering the operation of his or her license and particularly
17 showing the date of all purchases of alcoholic beverages, the
18 actual price paid therefor, and the name of the vendor, or to
19 refuse the board or any authorized employee of the board
20 access to the records or the opportunity to make copies of the
21 records when the request is made during business hours.

22 "(6) For any licensee or the servants, agents, or
23 employees of the same to refuse the board, any of its
24 authorized employees, or any duly commissioned law enforcement

1 officer the right to completely inspect the entire licensed
 2 premises at any time the premises are open for business.

3 ~~"(7) For any licensee or the servants, agents, or~~
 4 ~~employees of the same to be directly or indirectly employed by~~
 5 ~~any other licensee engaged in the manufacture, storage,~~
 6 ~~transportation, or sale of alcoholic beverages.~~

7 ~~"(7)(8)~~ For any person to knowingly sell any
 8 alcoholic beverages to any person engaged in the business of
 9 illegally selling alcoholic beverages.

10 ~~"(8)(9)~~ For any person to manufacture, transport, or
 11 import alcoholic beverages into this state, except in
 12 accordance with the reasonable rules and regulations of the
 13 board. This subdivision shall not prohibit the transportation
 14 of alcoholic beverages through the state or any dry county so
 15 long as the beverages are not for delivery therein, if the
 16 transportation is done in accordance with the reasonable rules
 17 and regulations of the board.

18 ~~"(9)(10)~~ For any person to fortify, adulterate,
 19 contaminate, or in any manner change the character or purity
 20 of alcoholic beverages from that as originally marketed by the
 21 manufacturer, except that a retail licensee on order from a
 22 customer may mix a chaser or other ingredients necessary to
 23 prepare a cocktail or mixed drink for on-premises consumption.

24 ~~"(10)(11)~~ For any person licensed to sell alcoholic
 25 beverages to offer to give any thing of value as a premium for

1 the return of caps, stoppers, corks, stamps, or labels taken
2 from any bottle, case, barrel, or package containing the
3 alcoholic beverages, or to offer to give any thing of value as
4 a premium or present to induce the purchase of the alcoholic
5 beverages, or for any other purpose whatsoever in connection
6 with the sale of the alcoholic beverages. This subdivision
7 shall not apply to the return of any moneys specifically
8 deposited for the return of the original containers to the
9 owners of the containers.

10 "(11)~~(12)~~ For any licensee or transporter for hire,
11 servant, agent, or employee of the same, to transport any
12 alcoholic beverages except in the original container, and for
13 any transporter for hire to transport any alcoholic beverages
14 within the state, unless the transporter holds a permit issued
15 by the board.

16 "(12)~~(13)~~ For any manufacturer, importer, or
17 wholesaler, servant, agent, or employee of the same, to
18 deliver any alcoholic beverages, except in vehicles bearing
19 such information on each side of the vehicle as required by
20 the board.

21 "(13)~~(14)~~ For any person to sell alcoholic beverages
22 within any dry county or county where the electors have voted
23 against the sales, except in wet municipalities or as
24 authorized by Section 28-3A-18.

1 "(14)~~(15)~~ For any person, firm, corporation,
2 partnership, or association of persons as the terms are
3 defined in Section 28-3-1, including any civic center
4 authority, racing commission, fair authority, airport
5 authority, public or quasi-public board, agency, or
6 commission, any agent thereof, or otherwise, who or which has
7 not been properly licensed under the appropriate provisions of
8 this chapter to sell, offer for sale, or have in possession
9 for sale, any alcoholic beverages. Any alcoholic beverages so
10 possessed, maintained, or kept shall be contraband and subject
11 to condemnation and confiscation as provided by law.

12 "(15)~~(16)~~ For any manufacturer, distiller, producer,
13 importer, or distributor of alcoholic beverages to employ and
14 maintain any person, who is not a full-time bona fide
15 employee, as a resident sales agent, broker, or other like
16 representative, for the purpose of promoting a sale, purchase,
17 or acquisition of alcoholic beverages to or by the state or
18 the board, or for any person who is not a full-time bona fide
19 employee to act as an agent, broker, or representative of any
20 manufacturer, distributor, producer, importer, or distiller
21 for that purpose.

22 "(16)~~(17)~~ For any person to sell, give away, or
23 otherwise dispose of taxable alcoholic beverages within this
24 state on which the required taxes have not been paid as
25 required by law.

1 "(17)~~(18)~~ For any wholesaler or retailer, or the
2 servant, agent, or employee of the same, to sell, distribute,
3 deliver, or to receive or store for sale or distribution
4 within this state any alcoholic beverages unless there first
5 has been issued by the board a manufacturer's license to the
6 manufacturer of the alcoholic beverages or its designated
7 representative or an importer license to the importer of the
8 alcoholic beverages.

9 "(18)~~(19)~~ For any person under the legal drinking
10 age, as defined in Section 28-1-5, to attempt to purchase, to
11 purchase, consume, possess, or to transport any alcoholic
12 beverages within the state; provided, however, it shall not be
13 unlawful for a person under the legal drinking age, as defined
14 in Section 28-1-5, to be an employee of a wholesale licensee
15 or an off-premises retail licensee of the board to handle,
16 transport, or sell any beer or table wine if the person under
17 the legal drinking age is acting within the line and scope of
18 his or her employment while so acting. There must be an adult
19 licensee, servant, agent, or employee of the same present at
20 all times a licensed establishment is open for business.

21 "(19)~~(20)~~ For any person, except where authorized by
22 a local act or general act of local application, to buy, give
23 away, sell, or serve for consumption on or off the premises,
24 or to drink or consume any alcoholic beverages in any cafe,

1 lunchroom, restaurant, hotel dining room, or other public
 2 place on Sunday after the hour of two o'clock A.M.

3 "~~(20)~~~~(21)~~ Except where authorized by a local act or
 4 general act of local application, for the proprietor, keeper,
 5 or operator of any cafe, lunchroom, restaurant, hotel dining
 6 room, or other public place to knowingly permit any person to
 7 give away, sell, or serve for consumption on or off the
 8 premises, or to drink or consume any alcoholic beverages on
 9 the premises of the cafe, lunchroom, restaurant, hotel dining
 10 room, or other public place on Sunday after the hour of two
 11 o'clock A.M.

12 "~~(21)~~~~(22)~~ For a person under the age of 21 years to
 13 knowingly use or attempt to use a false, forged, deceptive, or
 14 otherwise nongenuine driver's license to obtain or attempt to
 15 obtain alcoholic beverages within this state.

16 "(b) (1) Any violation of subdivisions (1) through
 17 ~~(18)~~ (17) of subsection (a) ~~of this section~~ shall be a
 18 misdemeanor punishable by a fine of not less than one hundred
 19 dollars (\$100) nor more than one thousand dollars (\$1,000), to
 20 which, at the discretion of the court or judge trying the
 21 case, may be added imprisonment in the county jail or at hard
 22 labor for the county for not more than six months for the
 23 first conviction; and, on the second conviction of a violation
 24 of the subdivisions, the offense shall, in addition to the
 25 aforementioned fine, be punishable by imprisonment or at hard

1 labor for the county for not less than three months nor more
2 than six months to be imposed by the court or judge trying the
3 case; and, on the third conviction and every subsequent
4 conviction of a violation of the subdivisions, the offense
5 shall, in addition to a fine within the limits abovenamed, be
6 punishable by imprisonment or at hard labor for the county for
7 not less than six months nor more than 12 months.

8 "(2) Any violation of any provision of subdivisions
9 ~~(19), (20), (21), and (22)~~ (18), (19), (20), and (21) of
10 subsection (a) ~~of this section~~ shall be a misdemeanor
11 punishable by a fine of not less than fifty dollars (\$50) nor
12 more than five hundred dollars (\$500), to which, at the
13 discretion of the court or judge trying the case, may be added
14 imprisonment in the county jail or at hard labor for the
15 county for not more than three months.

16 "(c) In addition to the penalties otherwise provided
17 for a violation of subdivisions ~~(19) and (22)~~ (18) and (21) of
18 subsection (a) ~~of this section~~, upon conviction, including
19 convictions in juvenile court or under the Youthful Offender
20 Act, the offender's license to operate a motor vehicle in this
21 state shall be surrendered by the offender to the judge
22 adjudicating the case for a period of not less than three
23 months nor more than six months. The judge shall forward a
24 copy of the order suspending the license to the Department of
25 Public Safety for enforcement purposes."

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

