

1 HB289
2 189601-1
3 By Representative England
4 RFD: Economic Development and Tourism
5 First Read: 25-JAN-18

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8 SYNOPSIS: Under existing law, a retail licensee of
9 alcoholic beverages is prohibited from
10 adulterating, contaminating, or in any other manner
11 changing the character or purity of an alcoholic
12 beverage for on-premises consumption.

13 This bill would authorize on-premises
14 licensees of the Alcoholic Beverage Control Board
15 to produce, store, and sell infused products and
16 would allow a retail licensee to make infusions
17 using distilled spirits for on-site consumption.

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19 A BILL
20 TO BE ENTITLED
21 AN ACT

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23 Relating to alcoholic beverages; to add Section
24 28-3A-20.3 to the Code of Alabama 1975, and to amend Section
25 28-3A-25, Code of Alabama 1975; to authorize on-premises
26 licensees of the Alcoholic Beverage Control Board to produce,
27 store, and sell infused products; and to authorize retail

1 licensees of alcoholic beverages to make infusions using
2 distilled spirits for on-site consumption.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 28-3A-20.3 is added to the Code
5 of Alabama 1975, to read as follows:

6 §28-3A-20.3.

7 (a) Any law to the contrary notwithstanding,
8 including, but not limited to, subdivision (9) of subsection
9 (a) of Section 28-3A-25, an on-premises licensee may infuse
10 alcoholic beverages for on-premises consumption.

11 (b) Infusion, as used in this section, shall mean an
12 alcoholic beverage that is created by combining or mixing one
13 distilled spirit with nonalcoholic food products and is not
14 intended for immediate consumption. A nonalcoholic product
15 includes the following: Spices, herbs, fruits, vegetables,
16 candy, or other substances intended for human consumption,
17 provided that no additional fermentation occurs and none of
18 the additives contain any additional alcohol.

19 (c) Any retail on-premises licensee intending to
20 produce, store, or sell infusions shall provide written
21 notification to the board of that intent.

22 (d) The distilled spirit used in an infusion shall
23 be purchased from a wholesale store licensed by the board and
24 all applicable state taxes shall be paid.

25 (e) The container holding an infusion shall be no
26 larger than five gallons.

1 (f) A batch of infused product shall satisfy all of
2 the following:

3 (1) Be infused, stored, and consumed only on the
4 licensed premises.

5 (2) Be labeled with all of the following
6 information:

7 a. A statement that the infused product contains
8 alcohol.

9 b. A title for the recipe.

10 c. The name of the person who prepared the batch of
11 infused product.

12 d. The date the batch of infused product was
13 produced.

14 e. The expiration date of the batch of infused
15 product.

16 f. The brand and type of spirits used to prepare the
17 batch of infused product.

18 g. The amount of spirits used to prepare the batch
19 of infused product.

20 h. A detailed and comprehensive list of all
21 ingredients used to prepare the batch of infused product.

22 (3) Comply with all applicable state and federal
23 food safety regulations.

24 (4) Be disposed of within seven days after being
25 prepared.

26 (g) A batch of infused product may not:

1 (1) Contain any added stimulant, drug, or illegal
2 substance including, but not limited to, caffeine, guarana,
3 ginseng, taurine, marijuana, or any product or beverage which
4 includes stimulants that are not naturally included in the
5 infused product or beverage including, but not limited to, an
6 energy drink.

7 (2) Be removed or transported from the licensed
8 premises.

9 (3) Be infused in, stored in, or dispensed from an
10 original package of liquor, or container bearing an alcoholic
11 beverage name brand.

12 (h) The board may promulgate additional rules as
13 necessary to implement this section.

14 Section 2. Section 28-3A-25 of the Code of Alabama
15 1975, is amended to read as follows:

16 "§28-3A-25.

17 "(a) It shall be unlawful:

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

23 "(2) For any wholesaler or the servants, agents, or
24 employees of the wholesaler to sell alcoholic beverages, to
25 other than wholesale or retail licensees or others within this
26 state lawfully authorized to sell alcoholic beverages, or to
27 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, except as specifically allowed by law for the
14 tasting of alcoholic beverages.

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

23 "(6) For any licensee or the servants, agents, or
24 employees of the same to refuse the board, any of its
25 authorized employees, or any duly commissioned law enforcement
26 officer the right to completely inspect the entire licensed
27 premises at any time the premises are open for business.

1 "(7) For any person to knowingly sell any alcoholic
2 beverages to any person engaged in the business of illegally
3 selling alcoholic beverages.

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

12 "(9) For any person to fortify, adulterate,
13 contaminate, or in any manner change the character or purity
14 of alcoholic beverages from that as originally marketed by the
15 manufacturer, except that a retail licensee ~~on order from a~~
16 ~~customer~~ may mix a chaser or other ingredients necessary to
17 prepare a cocktail or mixed drink or may make infusions for
18 on-premises consumption in accordance with Section 28-3A-20.3.

19 "(10) For any person licensed to sell alcoholic
20 beverages to offer to give any thing of value as a premium for
21 the return of caps, stoppers, corks, stamps, or labels taken
22 from any bottle, case, barrel, or package containing the
23 alcoholic beverages, or to offer to give any thing of value as
24 a premium or present to induce the purchase of the alcoholic
25 beverages, or for any other purpose whatsoever in connection
26 with the sale of the alcoholic beverages. This subdivision
27 shall not apply to the return of any moneys specifically

1 deposited for the return of the original containers to the
2 owners of the containers.

3 "(11) For any licensee or transporter for hire,
4 servant, agent, or employee of the same, to transport any
5 alcoholic beverages except in the original container, and for
6 any transporter for hire to transport any alcoholic beverages
7 within the state, unless the transporter holds a permit issued
8 by the board.

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

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

18 "(14) For any person, firm, corporation,
19 partnership, or association of persons as the terms are
20 defined in Section 28-3-1, including any civic center
21 authority, racing commission, fair authority, airport
22 authority, public or quasi-public board, agency, or
23 commission, any agent thereof, or otherwise, who or which has
24 not been properly licensed under the appropriate provisions of
25 this chapter to sell, offer for sale, or have in possession
26 for sale, any alcoholic beverages. Any alcoholic beverages so

1 possessed, maintained, or kept shall be contraband and subject
2 to condemnation and confiscation as provided by law.

3 "(15) For any manufacturer, distiller, producer,
4 importer, or distributor of alcoholic beverages to employ and
5 maintain any person, who is not a full-time bona fide
6 employee, as a resident sales agent, broker, or other like
7 representative, for the purpose of promoting a sale, purchase,
8 or acquisition of alcoholic beverages to or by the state or
9 the board, or for any person who is not a full-time bona fide
10 employee to act as an agent, broker, or representative of any
11 manufacturer, distributor, producer, importer, or distiller
12 for that purpose.

13 "(16) For any person to sell, give away, or
14 otherwise dispose of taxable alcoholic beverages within this
15 state on which the required taxes have not been paid as
16 required by law.

17 "(17) For any wholesaler or retailer, or the
18 servant, agent, or employee of the same, to sell, distribute,
19 deliver, or to receive or store for sale or distribution
20 within this state any alcoholic beverages unless there first
21 has been issued by the board a manufacturer's license to the
22 manufacturer of the alcoholic beverages or its designated
23 representative or an importer license to the importer of the
24 alcoholic beverages.

25 "(18) For any person under the legal drinking age,
26 as defined in Section 28-1-5, to attempt to purchase, to
27 purchase, consume, possess, or to transport any alcoholic

1 beverages within the state; provided, however, it shall not be
2 unlawful for a person under the legal drinking age, as defined
3 in Section 28-1-5, to be an employee of a wholesale licensee
4 or an off-premises retail licensee of the board to handle,
5 transport, or sell any beer or table wine if the person under
6 the legal drinking age is acting within the line and scope of
7 his or her employment while so acting. There must be an adult
8 licensee, servant, agent, or employee of the same present at
9 all times a licensed establishment is open for business.

10 "(19) For any person, except where authorized by a
11 local act or general act of local application, to buy, give
12 away, sell, or serve for consumption on or off the premises,
13 or to drink or consume any alcoholic beverages in any cafe,
14 lunchroom, restaurant, hotel dining room, or other public
15 place on Sunday after the hour of two o'clock A.M.

16 "(20) Except where authorized by a local act or
17 general act of local application, for the proprietor, keeper,
18 or operator of any cafe, lunchroom, restaurant, hotel dining
19 room, or other public place to knowingly permit any person to
20 give away, sell, or serve for consumption on or off the
21 premises, or to drink or consume any alcoholic beverages on
22 the premises of the cafe, lunchroom, restaurant, hotel dining
23 room, or other public place on Sunday after the hour of two
24 o'clock A.M.

25 "(21) For a person under the age of 21 years to
26 knowingly use or attempt to use a false, forged, deceptive, or

1 otherwise nongenuine driver's license to obtain or attempt to
2 obtain alcoholic beverages within this state.

3 "(b) (1) Any violation of subdivisions (1) through
4 (17) of subsection (a) shall be a misdemeanor punishable by a
5 fine of not less than one hundred dollars (\$100) nor more than
6 one thousand dollars (\$1,000), to which, at the discretion of
7 the court or judge trying the case, may be added imprisonment
8 in the county jail or at hard labor for the county for not
9 more than six months for the first conviction; and, on the
10 second conviction of a violation of the subdivisions, the
11 offense shall, in addition to the aforementioned fine, be
12 punishable by imprisonment or at hard labor for the county for
13 not less than three months nor more than six months to be
14 imposed by the court or judge trying the case; and, on the
15 third conviction and every subsequent conviction of a
16 violation of the subdivisions, the offense shall, in addition
17 to a fine within the limits abovenamed, be punishable by
18 imprisonment or at hard labor for the county for not less than
19 six months nor more than 12 months.

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

1 "(c) In addition to the penalties otherwise provided
2 for a violation of subdivisions (18) and (21) of subsection
3 (a), upon conviction, including convictions in juvenile court
4 or under the Youthful Offender Act, the offender's license to
5 operate a motor vehicle in this state shall be surrendered by
6 the offender to the judge adjudicating the case for a period
7 of not less than three months nor more than six months. The
8 judge shall forward a copy of the order suspending the license
9 to the Department of Public Safety for enforcement purposes."

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