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3 HOUSE ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE SUBSTITUTE
4 FOR HB519
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9 SYNOPSIS: Under existing law, delivery of alcoholic
10 beverages by a licensed retailer or through a third
11 party delivery service to a residence is
12 prohibited.

13 This bill would provide for a delivery
14 service permit issued by the Alcoholic Beverage
15 Control Board that would allow the permittee to
16 contract with licensed food retail stores to
17 deliver, or if the permittee is a licensed food
18 retail store, to deliver beer and wine directly to
19 Alabama residents who are at least 21 years of age
20 for their personal use.

21 This bill would provide for the permitting
22 process and establish certain restrictions and
23 requirements for delivery service permittees.

24 This bill would also authorize certain
25 employees of a delivery service permittee and
26 independent contractors of a delivery service
27 permittee to deliver beer and wine to residents.

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2 A BILL
3 TO BE ENTITLED
4 AN ACT

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6 Relating to alcoholic beverages; to amend Sections
7 28-1-4 and 28-10-3, Code of Alabama 1975, and to add Section
8 28-3A-3.1 to the Code of Alabama 1975; to provide for a
9 delivery service permit from the Alcoholic Beverage Control
10 Board that authorizes the permittee, using its employees or
11 independent contractors, to deliver beer and wine directly to
12 Alabama residents who are at least 21 years of age for their
13 personal use; to provide for the permitting procedure; to
14 provide restrictions and requirements on the delivery of beer
15 and wine; and to provide for issuance and renewal fees for a
16 delivery service permit.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Section 28-1-4, Code of Alabama 1975, is
19 amended to read as follows:

20 "§28-1-4.

21 "(a) The words and phrases used in this section
22 shall have the meanings ascribed to them in Section 28-3-1 and
23 any acts amendatory thereof, supplementary thereto or
24 substituted therefor.

25 "(b) It shall be unlawful for common or permit
26 carriers, operators of trucks, buses, or other conveyances or
27 out-of-state manufacturers or suppliers to make delivery of

1 any alcoholic beverage from ~~without~~ outside the State of
2 Alabama to any person, ~~association or corporation~~ within the
3 state, except to the Alabama Alcoholic Beverage Control Board
4 and to manufacturers, importers, wholesalers and warehouses
5 licensed by the Alabama Alcoholic Beverage Control Board to
6 receive the alcoholic beverages so delivered.

7 "(c) Notwithstanding subsection (b), a delivery
8 service permittee or an employee or independent contractor of
9 a delivery service permittee may transport and deliver
10 alcoholic beverages to a resident who is at least 21 years of
11 age in the state in accordance with Section 28-3A-3.1.

12 ~~"(c)(d)~~ Any violation of subsection ~~(a) of this~~
13 ~~section (b)~~ shall be a misdemeanor, punishable as provided in
14 ~~paragraph~~ subdivision (1) of subsection (b) of Section
15 28-3A-25.

16 ~~"(d) All laws or parts of law which conflict or are~~
17 ~~inconsistent with this section are hereby repealed, provided,~~
18 ~~however, the provisions of Section 28-1-3 are excluded."~~

19 Section 2. Section 28-3A-3.1 is added to the Code of
20 Alabama 1975, to read as follows:

21 §28-3A-3.1.

22 (a) As used in this section, the following terms
23 have the following meanings:

24 (1) GROCERY STORE. An establishment commonly known
25 as a supermarket, food store, grocery store, or food
26 warehouse, primarily engaged in the retail sale of a variety
27 of grocery and other store merchandise, the primary purpose of

1 which is to offer consumers a full line of groceries, meat,
2 and produce, with at least two million dollars (\$2,000,000) in
3 annual sales and typically has three or more checkout lanes
4 with registers, bar code scanners, and conveyor belts.

5 (2) RETAILER. A grocery store licensed to sell beer
6 or wine, or both, for on-premises consumption or off-premises
7 consumption, or both.

8 (b) Notwithstanding any other provision of this
9 title, any person, limited liability company, or partnership
10 that is registered to do business in this state, including a
11 retailer, regardless of the residency of the ownership of the
12 entity, may apply for and be issued a delivery service permit
13 that authorizes the permittee to deliver alcoholic beverages
14 from a retailer, or if the permittee is a retailer, to deliver
15 its own alcoholic beverages, to a resident in the state who is
16 at least 21 years of age for the resident's personal use and
17 not for resale.

18 (c) In order to receive a permit, the applicant for
19 a delivery service permit shall do all of the following:

20 (1) File an application with the Alcoholic Beverage
21 Control Board.

22 (2) Pay a filing fee of one hundred dollars (\$100).

23 (3) Provide to the board a sample contract it will
24 enter into with a retailer for the delivery of beer or wine,
25 or both.

26 (d) A delivery service permittee:

1 (1) If the permittee is not a retailer, may contract
2 with any retailer for the purpose of delivering beer or wine,
3 or both.

4 (2) May use its own employees or independent
5 contractors who are at least 21 years of age to deliver beer
6 or wine, or both, under this section.

7 (3) May take orders by telephone, Internet, or by
8 other electronic means for the sale and delivery of beer or
9 wine, or both, under this section.

10 (4) May deliver only sealed containers of beer and
11 wine.

12 (5) Shall obtain from the customer an attestation
13 that he or she is at least 21 years of age at the time the
14 order is placed.

15 (6) For any shipping container of which it is not
16 readily apparent that it contains alcoholic beverages, shall
17 stamp, print, or label on the outside of the shipping
18 container the words: "CONTAINS ALCOHOL: Must be delivered to a
19 person 21 years of age or older."

20 (7) Shall require the customer, at the time of
21 delivery, to provide photo identification verifying he or she
22 is at least 21 years of age and sign for the delivery.

23 (8) Shall report, at the direction of the board, the
24 total amount of beer and wine directly delivered to residents
25 in the state during the preceding calendar year.

1 (9) Shall collect and properly remit all state and
2 local sales or use taxes and excise taxes due on sales to
3 Alabama residents, as appropriate.

4 (10) Shall permit the board or the Department of
5 Revenue to perform an audit of the permittee's records upon
6 request.

7 (11) Shall be deemed to have consented to the
8 jurisdiction of the board or any law enforcement agency and
9 the Alabama courts concerning enforcement of this section and
10 any related laws or rules.

11 (e) Any individual applying for a delivery service
12 permit under this section must be 21 years of age or older and
13 must not have been convicted of a felony.

14 (f) A delivery service permittee may renew its
15 permit with the board by paying annually a renewal fee of
16 fifty dollars (\$50) and providing the board a true copy of its
17 current permit.

18 (g) The board may enforce the requirements of this
19 section to suspend or revoke a delivery service permit by the
20 same administrative proceedings that apply to alcoholic
21 beverage licenses, and the board may accept payment of a fine
22 in lieu of suspension or revocation, such payments to be
23 determined by rule adopted by the board.

24 (h) The board may adopt rules pursuant to the
25 Alabama Administrative Procedure Act to implement this
26 section.

1 Section 3. Section 28-10-3, Code of Alabama 1975, is
2 amended to read as follows:

3 "§28-10-3.

4 "The following terms shall have the following
5 meanings unless the context clearly indicates otherwise:

6 "(1) BOARD. The Alcoholic Beverage Control Board of
7 the State of Alabama.

8 "(2) VENDOR. A person who is licensed by the board
9 to sell alcoholic beverages for ~~on-the-premises~~ on-premises
10 consumption ~~and/or for off-the-premises~~ or off-premises
11 consumption, or both, and to a person who is permitted by the
12 board as a delivery service permittee pursuant to Section
13 10-3A-3.1."

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