

1 HB478  
2 205984-2  
3 By Representative McCampbell (N & P)  
4 RFD: Tuscaloosa County Legislation  
5 First Read: 04-MAY-20

1  
2 ENROLLED, An Act,

3           Relating to alcoholic beverage licenses in certain  
4 Class 4 municipalities; to amend Act 98-342 of the 1998  
5 Regular Session (Acts 1998, p. 602); to repeal Section 28-1-7,  
6 Code of Alabama 1975; and to revise the list of enumerated  
7 reasons when denial by the governing body of a Class 4  
8 municipality that has adopted a mayor-council form of  
9 government of an alcoholic beverage license is appropriate.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11           Section 1. Act 98-342 of the 1998 Regular Session,  
12 (Acts 1998, p. 602) is amended to read as follows:

13           ~~"Section 1. (a)~~ (a) All other provisions of law, or  
14 ~~rules, or regulations~~ to the contrary notwithstanding, the  
15 Alabama Alcoholic Beverage Control Board ~~shall absolutely have~~  
16 ~~no authority to~~ may not issue any form of license in a Class  
17 ~~IV 4~~ 4 municipality organized pursuant to ~~Ala. Code §~~ Section  
18 11-44B-1, et seq. (1975) of the Code of Alabama 1975,  
19 including, but not limited to, ~~on or off-premise~~ off-premises  
20 consumption licenses, ~~special event or, special retail~~  
21 ~~licenses,~~ restaurant ~~or lounge~~ licenses, or club licenses, ~~or~~  
22 ~~other licenses~~ for the retail sale of any form of ~~intoxicating~~  
23 alcoholic beverages, including, but not limited to, beer, and  
24 ~~other forms of malt beverages,~~ wine, liquor, or other

1 alcoholic beverages regulated by the board, unless ~~the~~ one of  
2 the following requirements is satisfied:

3 ~~"(a) (1) The application therefore has first been~~  
4 was first approved by the governing body of the municipality  
5 ~~within whose corporate limits in which~~ the site of the license  
6 is to be situated. The municipality ~~is authorized to~~ may adopt  
7 ~~and promulgate rules and regulations~~ for the administration  
8 and processing of applications for such licenses.

9 ~~"Section 2. (b) (2) The Alabama Alcoholic Beverage~~  
10 ~~Control Board may issue such license only if the denial of~~  
11 ~~approval~~ Denial of the application by the governing body ~~of~~  
12 ~~the municipality~~ has been set aside by order of the circuit  
13 court of the county in which the ~~municipality is~~ the site was  
14 to be situated ~~and such order has been affirmed by the~~  
15 ~~appropriate appellate court, if an appeal has been taken. The~~  
16 ~~circuit court of the county in which a municipality is located~~  
17 ~~may set aside the denial of approval of a license only on the~~  
18 basis that the denial ~~by the municipality~~ was arbitrary ~~and~~ or  
19 capricious ~~in that there was no~~ without a showing ~~to~~ by the  
20 governing body ~~of the municipality of any~~ of one of the  
21 following:

22 ~~"(a) (1) The creation of a nuisance.~~

23 ~~"(b) (2) Circumstances clearly detrimental to~~  
24 adjacent residential neighborhoods. ~~or~~

1           "(3) Circumstances detrimental to the public health,  
2 safety, and welfare.

3           "~~(c) (4) A violation~~ Violations of applicable laws,  
4 ordinances or zoning restrictions or regulations.

5           "(5) An individual applying for the license, or an  
6 individual who is an officer or director of a corporation or  
7 other entity applying for the license, has a prior conviction  
8 involving the use of alcoholic beverages or a controlled  
9 substance or a prior conviction involving the illegal sale of  
10 alcoholic beverages or a controlled substance.

11           "(6) The proximity of the proposed business to a  
12 school or child care facility and the business hours of the  
13 proposed business will create a harmful environment for the  
14 students or children.

15           "(7) Traffic congestion created by licensing the  
16 proposed business.

17           "(8) Any other reason that poses a risk to the  
18 surrounding neighborhoods or to public health, safety, and  
19 welfare.

20           "~~Section 3. (c) Proceedings in circuit court to~~  
21 review an action of a municipal governing body denying  
22 approval of a license application shall be expedited  
23 proceedings, heard by a circuit judge without a jury. who  
24 shall consider any testimony or matters presented to the city  
25 governing body and any new evidence presented in explanation

1 ~~or contradiction of the same. If a licensee ultimately~~  
2 ~~prevails in any judicial review as provided for herein on any~~  
3 ~~basis other than new evidence presented to the court that was~~  
4 ~~not fully presented to the municipal governing body, then the~~  
5 ~~applicant shall be entitled to an award of reasonable~~  
6 ~~attorneys' fees against the municipality. Any proceeding to~~  
7 ~~review the denial of approval of a license application by a~~  
8 ~~municipality shall be commenced within fourteen (14) calendar~~  
9 ~~14~~ days of the action by the municipal governing body and  
10 shall be set for hearing by the court within ~~thirty (30)~~  
11 ~~calendar~~ 30 days thereafter.

12 ~~"Section 4. This act shall supersede any and all~~  
13 ~~laws, rules and regulations contrary to or inconsistent with~~  
14 ~~this act."~~

15 Section 2. Section 28-1-7, Code of Alabama 1975,  
16 relating to alcoholic beverage licenses in certain Class 4  
17 municipalities, is 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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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 06-MAY-20.

Jeff Woodard  
Clerk

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Senate

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09-MAY-20

Passed