

1 SB287
2 210069-1
3 By Senators Orr, Livingston, Givhan, Allen, Butler, Reed,
4 Scofield, Stutts and Marsh
5 RFD: Tourism
6 First Read: 02-MAR-21

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8 SYNOPSIS: Under existing law, liquor wholesale
9 licensees may sell liquor at wholesale to the
10 Alabama Alcoholic Beverage Control Board or as
11 authorized by the board, but not other than to a
12 retail licensee of the board. Under existing law,
13 state liquor stores operated by the Alabama
14 Alcoholic Beverage Control Board and certain
15 licensed private retail stores may sell liquor at
16 retail. Under existing law, retail licensees of the
17 board must purchase liquor from the board for
18 resale.

19 This bill would require the Alabama
20 Alcoholic Beverage Control Board to adopt, amend,
21 or repeal rules as necessary to phase out the
22 retail sale of alcoholic beverages by the board
23 prior to September 30, 2026, but continue all other
24 functions prescribed by law.

25 This bill would provide for the markup on
26 all alcohol sold by the board; provide for the
27 distribution of proceeds; and provide that liquor

1 sold by the board shall be subject to existing
2 taxes.

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4 A BILL
5 TO BE ENTITLED
6 AN ACT

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8 To amend Sections 28-3-43, 28-3-53.1, and 28-3-53.2,
9 of the Code of Alabama 1975, regarding the sale of alcoholic
10 beverages and the Alabama Alcoholic Beverage Control Board; to
11 require the Alabama Alcoholic Beverage Control Board to adopt,
12 amend, or repeal rules as necessary to phase out operations
13 concerning the retail sale of alcoholic beverages prior to
14 September 30, 2026; to grant certain powers to the board to
15 facilitate the phase-out process; to provide that certain
16 existing retail licensees of the board may continue to sell
17 liquor for off-premises consumption and prohibiting the sale
18 or transfer of these licenses; to provide for the markup on
19 alcohol sales and the distribution of proceeds; to specify the
20 remaining functions of the board; and repeal Sections 28-3-280
21 through 28-3-286 of the Code of Alabama 1975.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. In addition to all other powers and
24 duties granted in Title 28, Code of Alabama 1975, the Alabama
25 Alcoholic Beverage Control Board shall adopt, amend, or repeal
26 rules of the board as necessary to phase out the retail sale
27 of alcoholic beverages prior to September 30, 2026, and shall

1 by that date close all state operated liquor stores and all
2 retail operations and functions. These rules shall be adopted,
3 amended, and repealed in accordance with the Administrative
4 Procedure Act, Chapter 22 (commencing with Section 41-22-1) of
5 Title 41 of the Code of Alabama 1975. The rules shall address
6 all provisions of the liquor operations of the board that will
7 be impacted by eliminating the retail sale of liquor and
8 retail operations including, but not limited to, all of the
9 following:

10 (1) Revising wholesale operations as necessary to
11 ensure adequate and timely distribution of liquor to
12 licensees.

13 (2) Establishing a phase-out schedule for retail
14 stores that takes into consideration current lease
15 arrangements and the availability of products in a local
16 community.

17 (3) Creating a retail license, for a fee not to
18 exceed seven hundred fifty dollars (\$750) per year, permitting
19 the purchase of liquor from the board and the retail sale of
20 the liquor in unopened containers for off-premises
21 consumption.

22 (4) Providing severance pay, preferential treatment,
23 and other benefits for displaced employees as authorized by
24 the State Personnel Board.

25 (5) Adjusting the markup on liquor purchased at
26 wholesale from the board as necessary to hold recipients of
27 store profits harmless.

1 (6) Enforcing the provisions of this act.

2 Section 2. (a) Retail licenses shall be the only
3 types of licenses issued by the board authorizing the sale of
4 liquor in original unopened containers at retail for
5 off-premises consumption.

6 (b) A retail licensee or any other person may sell
7 beer and table wine upon obtaining the proper license as
8 presently required by law.

9 Section 3. Alcohol sold at retail in stores operated
10 by the Alabama Alcoholic Beverage Control Board prior to
11 September 30, 2026 shall be subject to the tax and markup
12 presently provided by law and the proceeds of that tax shall
13 be distributed as presently provided by law. Alcohol sold by
14 the board after retail stores have been phased-out shall be
15 subject to the markup established by rule of the board.

16 Section 4. (a) (1) This act shall not be construed to
17 prohibit a municipality from collecting municipal sales taxes
18 on liquor sold by any retail licensee of the board, including,
19 but not limited to, a retail licensee at the same rate levied
20 by the municipality on the sales of other tangible property.

21 (2) If a local law allocated a portion of sales tax
22 proceeds received by the municipality, pursuant to Section
23 28-3-280 to Section 28-3-286, inclusive, Code of Alabama 1975,
24 the same amount of sales tax proceeds received by the
25 municipality in the base year from sales taxes on the sale of
26 liquor in original unopened containers by licensees of the
27 board for off-premises consumption shall be allocated in the

1 same manner at the same intervals by the municipality until
2 otherwise provided by local law. The remaining amounts
3 collected by the municipality shall be distributed as provided
4 by general or local law.

5 (3) For the purposes of this subsection, the last
6 full state tax year prior to the effective date of this act
7 shall be referred to as the base year.

8 b) (1) This act shall not be construed to prohibit a
9 county that is authorized to levy a sales tax, in addition to
10 the tax authorized by Section 40-12-4 of the Code of Alabama
11 1975, from collecting the county sales tax on the retail sale
12 of liquor in original unopened containers for off-premises
13 consumption by a licensee of the board at the same rate levied
14 by the county on the sales of other tangible property. This
15 act shall not be construed as granting this taxing authority
16 to a county.

17 (2) If a local law allocated a portion of sales tax
18 proceeds received by the county, pursuant to Section 28-3-280
19 to Section 28-3-286, inclusive, Code of Alabama 1975, the same
20 amount of sales tax proceeds received by the county on the
21 sale of liquor in original unopened containers for
22 off-premises consumption by a licensee of the board shall be
23 allocated in the same manner at the same intervals by the
24 county until otherwise provided by local law. The remaining
25 amounts collected by the county shall be distributed as
26 provided by general or local law.

1 (3) For the purposes of this subsection, the last
2 full state tax year prior to the effective date of this act
3 shall be referred to as the base year.

4 Section 5. The board shall continue to perform all
5 other functions required by law, including, but not limited
6 to, the wholesale sale of liquor, licensing, auditing and
7 collection.

8 Section 6. Sections 28-3-43, 28-3-53.1, and
9 28-3-53.2, of the Code of Alabama 1975, are amended to read as
10 follows:

11 "§28-3-43.

12 "(a) The functions, duties, and powers of the board
13 shall be as follows:

14 "(1) To buy, manufacture and sell at wholesale
15 alcoholic beverages and to have alcoholic beverages in its
16 possession for sale at wholesale, as defined and enumerated in
17 this chapter and to have alcoholic beverages in its possession
18 for sale at retail at any time prior to September 30, 2026.

19 "(2) To control the possession, sale,
20 transportation, and delivery of alcoholic beverages as
21 enumerated and defined in this chapter.

22 "(3) To determine the localities within which ~~any a~~
23 state-operated liquor store shall may be established and
24 operated and the location of such the state-operated liquor
25 store at any time prior to September 30, 2026. No
26 state-operated liquor store shall be established in and
27 neither the board nor any other person may legally buy,

1 manufacture, or sell alcoholic beverages in ~~any~~ a county which
2 has voted in the negative in ~~any~~ an election called as
3 provided in Chapter 2 of this title for determining the ~~said~~
4 issue unless and until ~~said~~ the county has at a subsequent
5 similar election voted in the affirmative. The board shall
6 have the power at any time prior to September 30, 2026, to
7 ~~establish and maintain state-operated liquor~~ stores for the
8 sale of liquors as defined in this chapter, ~~provided, that~~
9 ~~municipalities.~~ Municipalities may by proper zoning ordinances
10 establish zones or districts within which ~~such~~ liquor stores
11 may or may not be established, ~~provided further, that the.~~ The
12 number of state-operated liquor stores in ~~any~~ a municipality
13 shall be limited to two ~~such~~ stores for municipalities of
14 25,000 population or less according to the last or any
15 subsequent federal census and, in municipalities having more
16 than 25,000 population, such additional stores as the board,
17 in its discretion, may determine.

18 "(4) To make provision for the maintenance of
19 warehouses for alcoholic beverages and to control the delivery
20 of alcoholic beverages to and from such warehouses and the
21 keeping of the same therein.

22 "(5) To operate distilleries and to manufacture
23 alcoholic beverages if, in the opinion of the board, the
24 purposes of this chapter can be thereby promoted. The price of
25 all spiritous and vinous liquors dispensed by the board shall
26 be fixed by the board, and the location of state-operated
27 liquor stores shall not be adjacent to schools or churches or

1 in a neighborhood which is exclusively residential. Neither
2 the board nor ~~any~~ a state store operated by it shall in any
3 manner advertise its wares for sale.

4 "(6) To appoint, subject to the provisions of the
5 Merit System, every officer, agent, inspector, investigator,
6 and employee, in accordance with the qualifications
7 specifically set out in this chapter, required for the
8 operation of the business of ~~said~~ the board; ~~commission~~ ~~such~~
9 the agents, inspectors, or investigators as necessary to make
10 arrests and execute search warrants and have the same
11 authority as designated to peace officers ~~as now authorized~~ by
12 law; assign all employees their official positions and
13 titles, define their respective duties and powers, require
14 them ~~or any of them~~ to give bonds payable to the state in such
15 penalty as shall be fixed by the board; and engage the
16 services of experts and persons engaged in the practice of a
17 profession.

18 "(7) To control the manufacture, possession, sale,
19 consumption, importation, use, and delivery of liquor,
20 alcohol, and malt and brewed beverages in accordance with ~~the~~
21 ~~provisions of~~ this chapter and to fix the wholesale price of
22 liquor and the retail prices at which liquor shall be sold at
23 ~~Alabama~~ state-operated liquor stores. The board shall require
24 each Alabama manufacturer and each nonresident manufacturer of
25 distilled liquors selling distilled liquors to the board to
26 make application for and be granted a permit by the board
27 before distilled liquors shall be purchased from ~~such~~ the

1 manufacturer. The board before issuing ~~such~~ the permit shall
2 collect from each applicant a permit fee of ~~\$15.00~~ fifteen
3 dollars (\$15), which sum shall be paid annually thereafter on
4 application. In the event that ~~any such a~~ a manufacturer ~~shall~~,
5 in the opinion of the board, ~~sell~~ sells distilled liquors ~~to~~
6 ~~the board~~ through another person for the purpose of evading
7 this provision relating to permits, the board shall require
8 ~~such~~ the person before purchasing distilled liquors from him
9 or her or it to take out a permit and pay the same fee as
10 ~~hereinbefore~~ is required to be paid by ~~such~~ the manufacturer.
11 ~~All These~~ These permit fees ~~so collected~~ shall be paid into the
12 State ~~Stores~~ General Fund.

13 "(8) To grant, issue and suspend, or revoke for
14 cause liquor licenses and alcohol permits as provided in this
15 chapter.

16 "(9) To grant, issue and suspend, or revoke for
17 cause malt or brewed and vinous beverages licenses as provided
18 in this chapter.

19 "(10) To lease, and furnish, and equip such
20 buildings, rooms, and other accommodations as shall be
21 required for the operation of this chapter. To determine the
22 nature, form, and capacity of all packages to be used for
23 containing liquor, alcohol, or malt or brewed beverages to be
24 kept or sold under this chapter and to prescribe the form and
25 contents of all labels and seals to be placed thereon.

26 "(11) To purchase from time to time the necessary
27 stamps, crowns, or lids, in a quantity sufficient for a period

1 not to exceed six months, for identifying each article sold or
2 distributed by or through the ~~said~~ state-operated liquor
3 stores or a licensee of the board. All liquors, vinous
4 beverages, and alcohol sold or distributed by the board or ~~any~~
5 a licensee of ~~said~~ the board shall be stamped or endorsed in
6 such characteristic way or manner to be determined by the
7 board as shall clearly indicate that it has been dispensed or
8 regulated by the board, and all such liquors, vinous
9 beverages, or alcohol not containing such label shall be
10 contraband and subject to forfeiture as other contraband
11 liquors.

12 "(12) To require all wholesalers who make sales of
13 alcoholic beverages of any kind as defined in this chapter to
14 ~~any~~ a state-operated liquor store or other authorized licensee
15 to forward, when the shipments of ~~such~~ the alcoholic beverages
16 are made, to the board an invoice setting out the quantities
17 of beverages purchased, and the price quotation showing at
18 what price such beverages were sold and such invoice and
19 quotation to be placed on record in the records of the
20 Alcoholic Beverage Control Board of the State of Alabama and
21 to be held for a period of not less than 18 months.

22 "(b) The Alcoholic Beverage Control Board shall be
23 subject to regular examinations by the Examiners of Public
24 Accounts the same as all other state agencies.

25 "§28-3-53.1.

26 "(a) There shall be no distribution of any taxes
27 collected on alcoholic beverages sold by the Alabama Alcoholic

1 Beverage Control Board or of any funds distributed as net
2 profits by said board for at least 25 days beginning October
3 1, 1983, for at least 55 days by September 30, 1984, for at
4 least 85 days by September 30, 1985, for at least 115 days by
5 September 30, 1986, for at least 120 days by September 30,
6 1987, and ~~thereafter~~ until September 30, 2026, from the close
7 of the month in which the ~~said~~ taxes or ~~said~~ funds are
8 realized. The moneys so realized are intended for use by ~~said~~
9 the board for inventory purposes. This subsection shall be
10 inoperative after September 30, 2026.

11 ~~"(b) Any funds accumulated as working capital under~~
12 ~~Section 28-3-74(d) shall be distributed to the several~~
13 ~~beneficiaries on the same basis as withheld on the next~~
14 ~~distribution of profits to such beneficiaries by the Alabama~~
15 ~~Alcoholic Beverage Control Board after October 1, 1984.~~

16 "(b) Any taxes previously collected and maintained
17 in the Working Inventory Capital Fund as of July 1, 2026,
18 shall be transferred to the State General Fund. Any additional
19 taxes collected but not distributed as of September 30, 2026,
20 pursuant to subsection (a) of this section shall first be
21 distributed in the same manner and in the amounts due for the
22 month of October 2025, to all current tax recipients and the
23 remainder shall be transferred to the State General Fund no
24 later than January 31, 2027.

25 "§28-3-53.2.

26 "(a) The word board, wherever used in this section,
27 shall mean the Alabama Alcoholic Beverage Control Board

1 provided for in Chapter 3, Title 28. The term mark up,
2 wherever used in this section shall mean the percentage amount
3 added to cost plus freight on spirituous or vinous liquors
4 sold by the board, exclusive of taxes heretofore levied with
5 respect thereto.

6 "(b) Until September 29, 2026, the ~~The~~ total amount
7 of the additional mark up on cost of merchandise, levied by
8 the Alcoholic Beverage Control Board subsequent to June 30,
9 1983, shall be designated to the credit of the General Fund of
10 the state.

11 "(c) The board shall be prohibited from increasing
12 the mark up on wholesale case lot sales of liquor above 16.99
13 percent of the cost plus freight subsequent to December 1,
14 2004, except as necessary following the effective date of this
15 act to: (1) fund remaining operating expenses of the board;
16 (2) provide severance pay or other benefits to displaced
17 workers; and (3) hold current recipients of store profits
18 harmless as retail stores and operations are phased out and
19 subsequently eliminated. Provided, however, the board shall be
20 prohibited from increasing the markup above 20 percent of the
21 cost plus freight subsequent to September 30, 2026. The
22 additional markup shall be distributed in the same manner as
23 provided for store profits in Section 28-3-74. For the
24 purposes of this provision, the base amount of profit
25 distributions shall be the most recently completed fiscal year
26 prior to the effective date of this act."

1 Section 7. All laws or parts of laws which conflict
2 or are inconsistent with this act are repealed. Sections
3 28-3-280 through 28-3-286 of the Code of Alabama 1975 are
4 specifically repealed on September 30, 2026.

5 Section 8. This act shall not be construed as
6 authorizing the sale of liquor or any other type of alcoholic
7 beverage in any area of the state. Such sales shall be
8 permitted only if otherwise authorized by law.

9 Section 9. This act shall become effective
10 immediately following its passage and approval by the
11 Governor, or its otherwise becoming law.