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3 HOUSE ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE SUBSTITUTE
4 FOR HB176

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9 SYNOPSIS: Under existing law, certain individuals
10 under the legal drinking age of 21 may be employed
11 by a restaurant or other business that sells
12 alcoholic beverages for on-premises consumption,
13 provided that an individual who is 19 or 20 years
14 of age may serve alcoholic beverages and must do so
15 only under the supervision of an adult.

16 This bill would authorize bussers and
17 servers between the ages of 18 and 20 years to
18 serve alcoholic beverages in restaurants provided
19 they do not serve as bartenders.

20 This bill would revise the civil penalties
21 for a business licensed by the Alcoholic Beverage
22 Control Board which employs a worker under the age
23 of 21 in violation of these limitations.

24 This bill would also make nonsubstantive,
25 technical revisions to update the existing code
26 language to current style.

1 A BILL
2 TO BE ENTITLED
3 AN ACT
4

5 Relating to underage drinking; to amend Sections
6 28-1-5 and 28-3A-25, Code of Alabama 1975, to authorize minors
7 between 18 and 20 years of age employed by restaurants
8 licensed by the Alcoholic Beverage Control Board to serve
9 alcoholic beverages in certain circumstances; to revise
10 penalties for employers that violate the restrictions on
11 underage workers handling alcoholic beverages; and to make
12 nonsubstantive, technical revisions to update the existing
13 code language to current style.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 28-1-5 and 28-3A-25, Code of
16 Alabama 1975, are amended to read as follows:

17 "§28-1-5.

18 "(a) ~~Notwithstanding the provisions of~~ Section
19 26-1-1, it shall be unlawful for ~~a person~~ an individual less
20 than 21 years of age to attempt to purchase, purchase,
21 consume, possess, or ~~to transport any alcohol, liquor or malt~~
22 ~~or brewed beverages~~ alcoholic beverage within the State of
23 Alabama. ~~Notwithstanding any other provision of this section,~~
24 ~~it shall not be unlawful for any Alcoholic Beverage Control~~
25 ~~Board licensee to employ any person under the legal drinking~~
26 ~~age to work, provided there is an adult in attendance at all~~
27 ~~times. It shall be permissible to employ persons in an~~

1 ~~on-premise licensed establishment under legal drinking age~~
2 ~~such as professional entertainers, show people, musicians,~~
3 ~~cashiers, hostesses, ushers, waiters and waitresses, busboys~~
4 ~~or girls, and the like, provided they do not serve, dispense~~
5 ~~or consume alcoholic beverages and there is an adult in~~
6 ~~attendance at all times. Notwithstanding the previous~~
7 ~~sentence, persons who are 19 years of age or older and working~~
8 ~~as a waiter, waitress, or server may serve alcoholic beverages~~
9 ~~during normal dining hours in a restaurant which holds an~~
10 ~~Alcoholic Beverage Control Board restaurant retail license. An~~
11 ~~employer who employs a person between the ages of 19 and 21 to~~
12 ~~serve alcoholic beverages as provided in the preceding~~
13 ~~sentence shall be a licensee of the board who has been~~

14 "(b) Nothing in this section shall prevent an
15 individual who is less than 21 years of age from being
16 employed by a licensee of the board, provided the individual
17 may not handle, transport, serve, or dispense alcoholic
18 beverages, except as authorized under subsection (c), and a
19 representative of the licensee who is 21 years of age or older
20 must be in attendance at all times the individual is working.

21 "(c) Notwithstanding subsection (a):

22 "(1) An individual who is 18, 19, or 20 years of age
23 and is employed by a restaurant licensee may serve alcoholic
24 beverages, provided all of the following conditions are met:

25 "a. The employee is working within the scope of his
26 or her employment as a server or a busser.

1 "b. The employee may not work as a bartender and may
2 not pour or dispense alcoholic beverages.

3 "c. The restaurant licensee is annually certified as
4 a responsible vendor under the Alabama Responsible Vendor Act
5 as provided in Chapter 10 (~~commencing with Section 28-10-1~~) of
6 this title.

7 "(2) An individual under 21 years of age and who is
8 employed by a wholesale licensee or an off-premises retail
9 licensee may handle, transport, or sell alcoholic beverages,
10 provided the employee is working within the scope of his or
11 her employment.

12 ~~"(d) Whoever violates this section shall be fined~~
13 ~~not less than \$25.00 nor more than \$100.00, or imprisoned in~~
14 ~~the county jail for not more than 30 days or both; provided~~
15 ~~further, that juvenile offenders shall not be held in the~~
16 ~~county jail, but shall be held, either before or after~~
17 ~~sentencing, in a juvenile detention facility pursuant to the~~
18 ~~guidelines of the Department of Youth Services, which shall be~~
19 ~~separate and apart from adult offenders. The board may levy a~~
20 civil penalty, up to and including suspension or revocation of
21 the license, against any licensee who requests or requires as
22 a condition of employment an employee under the age of 21
23 years to handle, transport, serve, or dispense alcoholic
24 beverages in a manner that violates this section, as follows:

25 "(1) Two hundred fifty dollars (\$250) for a first
26 offense.

1 "(2) Five hundred dollars (\$500) for a second
2 offense.

3 "(3) One thousand dollars (\$1,000) for a third or
4 subsequent offense.

5 "§28-3A-25.

6 "(a) It shall be unlawful:

7 "(1) For any manufacturer, importer, or wholesaler,
8 or the servants, agents, or employees of the same, to sell,
9 trade, or barter in alcoholic beverages between the hours of
10 nine o'clock p.m. of any Saturday and two o'clock a.m. of the
11 following Monday.

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

17 "(3) For any person, licensee, or the board, either
18 directly or by the servants, agents, or employees of the same,
19 or for any servant, agent, or employee of the same, to sell,
20 deliver, furnish, or give away alcoholic beverages to any
21 ~~person~~ individual under the legal drinking age, as defined in
22 Section 28-1-5, or to permit any ~~person~~ individual under the
23 legal drinking age, as defined in Section 28-1-5, to drink,
24 consume, or possess any alcoholic beverages on any licensee's
25 premises.

26 "(4) For any ~~person~~ individual to consume alcoholic
27 beverages on the premises of any state liquor store or any

1 off-premises licensee, or to allow alcoholic beverages to be
2 consumed on the premises of any state liquor store or any
3 off-premises licensee, except as specifically allowed by law
4 for the tasting of alcoholic beverages.

5 "(5) For any licensee to fail to keep for a period
6 of at least three years, complete and truthful records
7 covering the operation of his or her license ~~and particularly~~
8 ~~showing~~ that specifically show the date of all purchases of
9 alcoholic beverages, the actual price paid ~~therefor~~, and the
10 name of the vendor, or to refuse the board or any authorized
11 employee of the board access to the records or the opportunity
12 to make copies of the records when the request is made during
13 business hours.

14 "(6) For any licensee or the servants, agents, or
15 employees of the same to refuse the board, any of its
16 authorized employees, or any duly commissioned law enforcement
17 officer the right to completely inspect the entire licensed
18 premises at any time the premises are open for business.

19 "(7) For any person to knowingly sell any alcoholic
20 beverages to any person engaged in the business of illegally
21 selling alcoholic beverages.

22 "(8) For any person to manufacture, transport, or
23 import alcoholic beverages into this state, except in
24 accordance with the reasonable rules of the board. This
25 subdivision shall not prohibit the transportation of alcoholic
26 beverages through the state or any dry county so long as the

1 beverages are not for delivery therein, if the transportation
2 is done in accordance with the reasonable rules of the board.

3 "(9) For any person to fortify, adulterate,
4 contaminate, or in any manner change the character or purity
5 of alcoholic beverages from that as originally marketed by the
6 manufacturer, except that a retail licensee may mix a chaser
7 or other ingredients necessary to prepare a cocktail or mixed
8 drink or may make infusions for on-premises consumption in
9 accordance with Section 28-3A-20.3.

10 "(10) For any person licensed to sell alcoholic
11 beverages to offer to give any thing of value as a premium for
12 the return of caps, stoppers, corks, stamps, or labels taken
13 from any bottle, case, barrel, or package containing the
14 alcoholic beverages, or to offer to give any thing of value as
15 a premium or present to induce the purchase of the alcoholic
16 beverages, or for any other purpose whatsoever in connection
17 with the sale of the alcoholic beverages. This subdivision
18 shall not apply to the return of any ~~moneys~~ monies
19 specifically deposited for the return of the original
20 containers to the owners of the containers.

21 "(11) For any licensee or transporter for hire,
22 servant, agent, or employee of the same, to transport any
23 alcoholic beverages except in the original container, and for
24 any transporter for hire to transport any alcoholic beverages
25 within the state, unless the transporter holds a permit issued
26 by the board.

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

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

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

21 "(15) For any manufacturer, ~~distiller,~~ producer,
22 importer, or distributor of alcoholic beverages to employ and
23 maintain any ~~person,~~ individual who is not a full-time bona
24 fide employee, as a resident sales agent, broker, or other
25 like representative, for the purpose of promoting a sale,
26 purchase, or acquisition of alcoholic beverages to or by the
27 state or the board, or for any ~~person~~ individual who is not a

1 full-time bona fide employee to act as an agent, broker, or
2 representative of any manufacturer, distributor, producer, or
3 importer, ~~or distiller~~ for that purpose.

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

8 "(17) For any wholesaler or retailer, or the
9 servant, agent, or employee of the same, to sell, distribute,
10 deliver, or to receive or store for sale or distribution
11 within this state any alcoholic beverages unless there first
12 has been issued by the board a manufacturer's license to the
13 manufacturer of the alcoholic beverages or its designated
14 representative or an importer license to the importer of the
15 alcoholic beverages.

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

1 business, except for certain employees of licensees who may
2 serve, handle, transport, or sell alcoholic beverages as
3 authorized under subsection (c) of Section 28-1-5.

4 "(19) For any person, except where authorized by a
5 local act or general act of local application or pursuant to
6 Section 28-3-25, to buy, give away, sell, or serve for
7 consumption on or off the premises, or to drink or consume any
8 alcoholic beverages in any cafe, lunchroom, restaurant, hotel
9 dining room, or other public place on Sunday after the hour of
10 two o'clock a.m.

11 "(20) Except where authorized by a local act or
12 general act of local application or pursuant to Section
13 28-3-25, for the proprietor, keeper, or operator of any cafe,
14 lunchroom, restaurant, hotel dining room, or other public
15 place to knowingly permit any person to give away, sell, or
16 serve for consumption, on or off the premises, or to drink or
17 consume any alcoholic beverages on the premises of the cafe,
18 lunchroom, restaurant, hotel dining room, or other public
19 place on Sunday after the hour of two o'clock a.m.

20 "(21) For ~~a person under the age of 21 years~~ any
21 individual under the legal drinking age, as defined in Section
22 28-1-5, to knowingly use or attempt to use a false, forged,
23 deceptive, or otherwise nongenuine ~~driver's~~ driver license to
24 obtain or attempt to obtain alcoholic beverages within this
25 state.

26 "(b) (1) Any violation of subdivisions (1) through
27 (17) of subsection (a) shall be a misdemeanor punishable by a

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

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

23 "(c) In addition to the penalties otherwise provided
24 for a violation of subdivisions (18) and (21) of subsection
25 (a), upon conviction, including convictions in juvenile court
26 or under the Youthful Offender Act, the offender's license to
27 operate a motor vehicle in this state shall be surrendered by

1 the offender to the judge adjudicating the case for a period
2 of not less than three months nor more than six months. The
3 judge shall forward a copy of the order suspending the license
4 to the Alabama State Law Enforcement Agency for enforcement
5 purposes."

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