

1 217999-2 : n : 03/02/2022 : ED / te

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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:

17 "§28-1-5.

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

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

"(c) Notwithstanding subsection (a):

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

"a. The employee is working within the scope of his 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.