

1 HB176
2 217999-4
3 By Representative South
4 RFD: Economic Development and Tourism
5 First Read: 01-FEB-22

1
2 ENROLLED, An Act,

3 Relating to underage drinking; to amend Sections
4 28-1-5 and 28-3A-25, Code of Alabama 1975, to authorize minors
5 between 18 and 20 years of age employed by restaurants
6 licensed by the Alcoholic Beverage Control Board to serve
7 alcoholic beverages in certain circumstances; to revise
8 penalties for employers that violate the restrictions on
9 underage workers handling alcoholic beverages; and to make
10 nonsubstantive, technical revisions to update the existing
11 code language to current style.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

15 "§28-1-5.

16 "(a) ~~Notwithstanding the provisions of~~ Section
17 26-1-1, it shall be unlawful for ~~a person~~ an individual less
18 than 21 years of age to attempt to purchase, purchase,
19 consume, possess, or ~~to transport any alcohol, liquor or malt~~
20 ~~or brewed beverages~~ alcoholic beverage within the State of
21 Alabama. ~~Notwithstanding any other provision of this section,~~
22 ~~it shall not be unlawful for~~ any Alcoholic Beverage Control
23 Board licensee to employ any person under the legal drinking
24 age to work, ~~provided there is an adult in attendance at all~~
25 ~~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:

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

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

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

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

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

1 years to handle, transport, serve, or dispense alcoholic
2 beverages in a manner that violates this section, as follows:

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

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

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

9 "§28-3A-25.

10 "(a) It shall be unlawful:

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

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

21 "(3) For any person, licensee, or the board, either
22 directly or by the servants, agents, or employees of the same,
23 or for any servant, agent, or employee of the same, to sell,
24 deliver, furnish, or give away alcoholic beverages to any
25 ~~person~~ individual under the legal drinking age, as defined in

1 Section 28-1-5, or to permit any ~~person~~ individual under the
2 legal drinking age, as defined in Section 28-1-5, to drink,
3 consume, or possess any alcoholic beverages on any licensee's
4 premises.

5 "(4) For any ~~person~~ individual to consume alcoholic
6 beverages on the premises of any state liquor store or any
7 off-premises licensee, or to allow alcoholic beverages to be
8 consumed on the premises of any state liquor store or any
9 off-premises licensee, except as specifically allowed by law
10 for the tasting of alcoholic beverages.

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

20 "(6) For any licensee or the servants, agents, or
21 employees of the same to refuse the board, any of its
22 authorized employees, or any duly commissioned law enforcement
23 officer the right to completely inspect the entire licensed
24 premises at any time the premises are open for business.

1 "(7) For any person to knowingly sell any alcoholic
2 beverages to any person engaged in the business of illegally
3 selling alcoholic beverages.

4 "(8) For any person to manufacture, transport, or
5 import alcoholic beverages into this state, except in
6 accordance with the reasonable rules of the board. This
7 subdivision shall not prohibit the transportation of alcoholic
8 beverages through the state or any dry county so long as the
9 beverages are not for delivery therein, if the transportation
10 is done in accordance with the reasonable rules of the board.

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

18 "(10) For any person licensed to sell alcoholic
19 beverages to offer to give any thing of value as a premium for
20 the return of caps, stoppers, corks, stamps, or labels taken
21 from any bottle, case, barrel, or package containing the
22 alcoholic beverages, or to offer to give any thing of value as
23 a premium or present to induce the purchase of the alcoholic
24 beverages, or for any other purpose whatsoever in connection
25 with the sale of the alcoholic beverages. This subdivision

1 shall not apply to the return of any ~~moneys~~ monies
2 specifically deposited for the return of the original
3 containers to the owners of the containers.

4 "(11) For any licensee or transporter for hire,
5 servant, agent, or employee of the same, to transport any
6 alcoholic beverages except in the original container, and for
7 any transporter for hire to transport any alcoholic beverages
8 within the state, unless the transporter holds a permit issued
9 by the board.

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

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

19 "(14) For any person, firm, corporation,
20 partnership, or association of persons as the terms are
21 defined in Section 28-3-1, including any civic center
22 authority, racing commission, fair authority, airport
23 authority, public or quasi-public board, agency, or
24 commission, any agent thereof, or otherwise, who or which has
25 not been properly licensed under the appropriate provisions of

1 this chapter to sell, offer for sale, or have in possession
2 for sale, any alcoholic beverages. Any alcoholic beverages so
3 possessed, maintained, or kept shall be contraband and subject
4 to condemnation and confiscation as provided by law.

5 "(15) For any manufacturer, ~~distiller,~~ producer,
6 importer, or distributor of alcoholic beverages to employ and
7 maintain any ~~person,~~ individual who is not a full-time bona
8 fide employee, as a resident sales agent, broker, or other
9 like representative, for the purpose of promoting a sale,
10 purchase, or acquisition of alcoholic beverages to or by the
11 state or the board, or for any ~~person~~ individual who is not a
12 full-time bona fide employee to act as an agent, broker, or
13 representative of any manufacturer, distributor, producer, or
14 importer, ~~or distiller~~ for that purpose.

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

19 "(17) For any wholesaler or retailer, or the
20 servant, agent, or employee of the same, to sell, distribute,
21 deliver, or to receive or store for sale or distribution
22 within this state any alcoholic beverages unless there first
23 has been issued by the board a manufacturer's license to the
24 manufacturer of the alcoholic beverages or its designated

1 representative or an importer license to the importer of the
 2 alcoholic beverages.

3 "(18) For any ~~person~~ individual under the legal
 4 drinking age, as defined in Section 28-1-5, to attempt to
 5 purchase, to purchase, consume, possess, or transport any
 6 alcoholic beverages within the state; ~~provided, however, it~~
 7 ~~shall not be unlawful for a person under the legal drinking~~
 8 ~~age, as defined in Section 28-1-5, to be an employee of a~~
 9 ~~wholesale licensee or an off-premises retail licensee of the~~
 10 ~~board to handle, transport, or sell any beer or table wine if~~
 11 ~~the person under the legal drinking age is acting within the~~
 12 ~~line and scope of his or her employment while so acting. There~~
 13 ~~must be an adult licensee, servant, agent, or employee of the~~
 14 ~~same present at all times a licensed establishment is open for~~
 15 ~~business,~~ except for certain employees of licensees who may
 16 serve, handle, transport, or sell alcoholic beverages as
 17 authorized under subsection (c) of Section 28-1-5.

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

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

10 "(21) For ~~a person under the age of 21 years~~ any
11 individual under the legal drinking age, as defined in Section
12 28-1-5, to knowingly use or attempt to use a false, forged,
13 deceptive, or otherwise nongenuine ~~driver's~~ driver license to
14 obtain or attempt to obtain alcoholic beverages within this
15 state.

16 "(b) (1) Any violation of subdivisions (1) through
17 (17) of subsection (a) shall be a misdemeanor punishable by a
18 fine of not less than one hundred dollars (\$100) nor more than
19 one thousand dollars (\$1,000), to which, at the discretion of
20 the court or judge trying the case, may be added imprisonment
21 in the county jail or at hard labor for the county for not
22 more than six months for the first conviction; and, on the
23 second conviction of a violation of the subdivisions, the
24 offense, in addition to the aforementioned fine, shall be
25 punishable by imprisonment or at hard labor for the county for

1 not less than three months nor more than six months to be
2 imposed by the court or judge trying the case; and, on the
3 third conviction and every subsequent conviction of a
4 violation of the subdivisions, the offense shall, in addition
5 to a fine within the limits abovenamed, be punishable by
6 imprisonment or at hard labor for the county for not less than
7 six months nor more than 12 months.

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

15 "(c) In addition to the penalties otherwise provided
16 for a violation of subdivisions (18) and (21) of subsection
17 (a), upon conviction, including convictions in juvenile court
18 or under the Youthful Offender Act, the offender's license to
19 operate a motor vehicle in this state shall be surrendered by
20 the offender to the judge adjudicating the case for a period
21 of not less than three months nor more than six months. The
22 judge shall forward a copy of the order suspending the license
23 to the Alabama State Law Enforcement Agency for enforcement
24 purposes."

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

Speaker of the House of Representatives

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 29-MAR-22, as amended.

Jeff Woodard
Clerk

Senate

06-APR-22

Passed