

1 HB176
2 216505-1
3 By Representative South
4 RFD: Economic Development and Tourism
5 First Read: 01-FEB-22

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

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

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

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

27 A BILL

1 TO BE ENTITLED

2 AN ACT

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

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

16 "§28-1-5.

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

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

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

20 "(c) Notwithstanding subsection (a):

21 "(1) An individual who is 18, 19, or 20 years of age
22 and is employed by an on-premises retail licensee may serve
23 alcoholic beverages as a server or busser, provided all of the
24 following conditions are met:

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

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

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

7 "(2) An individual under the age of 21 years of age
8 and who is employed by a wholesale licensee or an off-premises
9 retail licensee may handle, transport, or sell alcoholic
10 beverages, provided the employee is working within the scope
11 of his or 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 against any licensee who employs an individual
21 under the age of 21 in violation of this section, or requests
22 an employee under the age of 21 to act in a manner that
23 violates this section, as follows:

24 "(1) Five hundred dollars (\$500) for a first
25 offense.

26 "(2) One thousand dollars (\$1,000) for a second
27 offense.

1 "3) Two thousand five hundred dollars (\$2,500) for
2 a third or subsequent offense.

3 "§28-3A-25.

4 "(a) It shall be unlawful:

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

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

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

24 "(4) For any ~~person~~ individual to consume alcoholic
25 beverages on the premises of any state liquor store or any
26 off-premises licensee, or to allow alcoholic beverages to be
27 consumed on the premises of any state liquor store or any

1 off-premises licensee, except as specifically allowed by law
2 for the tasting of alcoholic beverages.

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

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

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

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

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

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

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

25 "(12) For any manufacturer, importer, or wholesaler,
26 servant, agent, or employee of the same, to deliver any
27 alcoholic beverages, except in vehicles bearing such

1 information on each side of the vehicle as required by the
2 board.

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

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

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

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

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

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

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

8 "(20) Except where authorized by a local act or
9 general act of local application or pursuant to Section
10 28-3-25, for the proprietor, keeper, or operator of any cafe,
11 lunchroom, restaurant, hotel dining room, or other public
12 place to knowingly permit any person to give away, sell, or
13 serve for consumption, on or off the premises, or to drink or
14 consume any alcoholic beverages on the premises of the cafe,
15 lunchroom, restaurant, hotel dining room, or other public
16 place on Sunday after the hour of two o'clock a.m.

17 "(21) For ~~a person under the age of 21 years~~ any
18 individual under the legal drinking age, as defined in Section
19 28-1-5, to knowingly use or attempt to use a false, forged,
20 deceptive, or otherwise nongenuine ~~driver's~~ driver license to
21 obtain or attempt to obtain alcoholic beverages within this
22 state.

23 "(b) (1) Any violation of subdivisions (1) through
24 (17) of subsection (a) shall be a misdemeanor punishable by a
25 fine of not less than one hundred dollars (\$100) nor more than
26 one thousand dollars (\$1,000), to which, at the discretion of
27 the court or judge trying the case, may be added imprisonment

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

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

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

1 to the Alabama State Law Enforcement Agency for enforcement
2 purposes."

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