

HB426 INTRODUCED



1 THG215-1
2 By Representative Treadaway
3 RFD: Public Safety and Homeland Security
4 First Read: 02-May-23
5
6 2023 Regular Session



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SYNOPSIS:

Under existing law, the Alcoholic Beverage Control Board is required to submit fingerprints of an applicant for an ABC license to the State Bureau of Investigations or a contracted entity to run a criminal background check on the applicant.

This bill would delete the language that authorizes a contracted entity to run the criminal background check.

A BILL
TO BE ENTITLED
AN ACT

Relating to alcoholic beverage licenses; to amend Section 28-3A-23, Code of Alabama 1975, to provide further for criminal background checks of license applicants.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 28-3A-23, Code of Alabama 1975, is amended to read as follows:

"§28-3A-23

(a) No license prescribed in this code shall be issued or renewed until the provisions of this code have been complied with and the filing and license fees other than those



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29 levied by a municipality are paid to the board.

30 (b) Licenses shall be granted and issued by the board
31 only to reputable individuals, to associations whose members
32 are reputable individuals, or to reputable corporations
33 organized under the laws of this state or duly qualified
34 thereunder to do business in Alabama, or, in the case of
35 manufacturers, duly registered under the laws of Alabama, and
36 then only when it appears that all officers and directors of
37 the corporation are reputable individuals.

38 (c) (1) In addition to all other requirements, an
39 applicant for a license under this section shall submit to the
40 board a form, sworn to by the applicant, providing written
41 consent from the applicant for the release of criminal history
42 background information. The form shall also require the
43 applicant's name, date of birth, and Social Security number
44 for completion of a criminal history background check.

45 (2) An applicant shall provide the board with two
46 complete functional sets of fingerprints, either cards or
47 electronic, properly executed by a criminal justice agency or
48 an individual properly trained in fingerprinting techniques.
49 The fingerprints and form shall be submitted by the board to
50 the State Bureau of Investigations, ~~or any entity contracted~~
51 ~~with,~~ for the purposes of furnishing criminal background
52 checks. The State Bureau of Investigations ~~or contracted~~
53 ~~entity~~ shall forward a copy of the applicant's prints to the
54 Federal Bureau of Investigation for a national criminal
55 background check. The applicant shall pay all costs associated
56 with the background checks required by this section.



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57 (3) For purposes of this section, the term applicant
58 shall include every person who has any proprietary or profit
59 interest of 10 percent or more in the licensed establishment,
60 but shall not include any public corporation whose shares are
61 traded on a recognized stock exchange.

62 (4) The board shall keep information received pursuant
63 to this section confidential, except that information received
64 and relied upon in denying the issuance of a license in this
65 state may be disclosed as may be necessary to support the
66 denial or when subpoenaed from a court.

67 (d) Every license issued under this ~~code~~-title shall be
68 constantly and conspicuously displayed on the licensed
69 premises.

70 (e) Each retail liquor license application must be
71 approved by the governing authority of the municipality if the
72 retailer is located in a municipality, or by the county
73 commission if the retailer is located in the county and
74 outside the limits of the municipality, before the board shall
75 have authority to grant the license.

76 (f) Any retailer may be granted licenses to maintain,
77 operate, or conduct any number of places for the sale of
78 alcoholic beverages, but a separate license must be secured
79 for each place where alcoholic beverages are sold. No retail
80 license issued under this ~~code~~-title shall be used for more
81 than one premises, nor for separate types of operation on the
82 same premises. Provided, however, any such licensed retail
83 operation existing on May 14, 2009, and operating based on
84 dual licenses, both a club or lounge license and a restaurant



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85 license, on the same premises shall be exempt from the
86 requirement of the preceding sentence and may continue to
87 operate under ~~such~~the dual licenses. Any rule adopted by the
88 board relating to the requirements concerning dual licenses,
89 both a club or lounge license and a restaurant license, shall
90 not apply to any retail operation existing on May 14, 2009.
91 The ~~aforementioned~~ rules shall include, but not be limited to,
92 the maintenance of separate books, separate entrances, and
93 separate inventories. Each premises must have a separate
94 retail license. Where more than one retail operation is
95 located within the same building, each operation under a
96 separate or different ownership is required to obtain a
97 separate retail license; and where more than one type of
98 retail operation located within the same building is operated
99 by the same licensee, the licensee must have a license for
100 each type of retail operation. Provided, there shall be no
101 licenses issued by the board for the sale of liquor, beer, or
102 wine by rolling stores.

103 (g) No retailer shall sell any alcoholic beverages for
104 consumption on the licensed premises except in a room or rooms
105 or place on the licensed premises at all times accessible to
106 the use and accommodation of the general public; but this
107 section shall not be interpreted to prevent a hotel or club
108 licensee from selling alcoholic beverages in any room of the
109 hotel or club house occupied by a bona fide registered guest
110 or member or private party entitled to purchase the same.

111 (h) All beer, except draft or keg beer, sold by
112 retailers must be sold or dispensed in bottles, cans, or other



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113 containers not to exceed 25.4 ounces. All wine sold by
114 retailers for off-premises consumption must be sold or
115 dispensed in bottles or other containers in accordance with
116 the standards of fill specified in the then effective
117 standards of fill for wine prescribed by the U.S. Treasury
118 Department.

119 (i) Draft or keg beer may be sold or dispensed within
120 this state within those counties in which and in the manner in
121 which the sale of draft or keg beer was authorized by law on
122 September 30, 1980, or in which the sale of draft or keg beer
123 is hereafter authorized by law. In rural communities with a
124 predominantly foreign population, after the payment of the tax
125 imposed by this title, draft or keg beer may be sold or
126 dispensed by special permit from the board, when, in the
127 judgment of the board, the use and consumption of draft or keg
128 beer is in accordance with the habit and customs of the people
129 of any such rural community. The board may grant to any civic
130 center authority or its franchisee or concessionaire, to which
131 the board may have issued or may simultaneously issue a retail
132 license under the provisions of this ~~code~~ title, a revocable
133 temporary permit to sell or dispense in any part of its civic
134 center, for consumption therein, draft or keg beer. Either
135 ~~such~~ permit shall be promptly revoked by the board if, in its
136 judgment, the same tends to create intemperance or is
137 prejudicial to the welfare, health, peace, temperance, and
138 safety of the people of the community or of the state.

139 (j) No importer shall sell alcoholic beverages to any
140 person other than a wholesaler licensee, or sell to a



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141 wholesaler licensee any brand or brands of alcoholic beverages
142 for sale or distribution in this state, except where the
143 importer has been granted written authorization from the
144 manufacturer thereof to import and sell the brand or brands to
145 be sold in this state, which authorization is on file with the
146 board.

147 (k) No wholesaler shall maintain or operate any place
148 where sales are made other than that for which the wholesale
149 license is granted; provided, however, a wholesaler may be
150 licensed to sell and distribute liquor, wine, and beer. No
151 wholesaler shall maintain any place for the storage of liquor,
152 wine, or beer unless the same has been approved by the board.
153 No wholesaler license shall be issued for any premises in any
154 part of which there is operated any retail license for the
155 sale of alcoholic beverages.

156 (l) Licenses issued under this ~~code~~title may not be
157 assigned. The board may transfer any license from one person
158 to another, or from one place to another within the same
159 governing jurisdiction, or both, as the board may determine;
160 but no transfers shall be made to a person who would not have
161 been eligible to receive the license originally, nor for the
162 transaction of business at a place for which the license could
163 not originally have been issued lawfully.

164 (m) Every applicant for a transfer of a license shall
165 file a written application with the board within such time as
166 the board shall fix in its rules. Whenever any license is
167 transferred, there shall be collected a filing fee of fifty
168 dollars (\$50), to be paid to the board, and the board shall



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169 pay the fee into the State Treasury to the credit of the Beer
170 Tax and License Fund of the board.

171 (n) In the event that any person to whom a license has
172 been issued under the terms of this code becomes insolvent,
173 makes an assignment for the benefit of creditors, or is
174 adjudicated as bankrupt by either voluntary or involuntary
175 action, the license of the person shall immediately terminate
176 and be cancelled without any action on the part of the board,
177 and there shall be no refund made, or credit given, for the
178 unused portion of the license fee for the remainder of the
179 license year for which the license was granted. Thereafter, no
180 license shall be issued by the board for the premises, wherein
181 the license was conducted, to any assignee, committee,
182 trustee, receiver, or successor of the licensee until a
183 hearing has been held by the board as in the case of a new
184 application for license. In all such cases, the board shall
185 have the sole and final discretion as to the propriety of the
186 issuance of a license for the premises, the time it shall
187 issue, and the period for which it shall be issued, and shall
188 have the further power to impose conditions under which the
189 licensed premises shall be conducted."

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