

**SB194 INTRODUCED**



1 N3G08T-1  
2 By Senators Livingston, Singleton  
3 RFD: Tourism  
4 First Read: 11-Apr-23  
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SYNOPSIS:

Existing law makes no specific provisions regarding the retail sale, wholesale, or tax on the sale of low-alcohol by volume content beverages from liquor. These beverages are not available for distribution through beer and table wine wholesalers.

This bill would define a new category of ready to drink mixed liquor beverages containing no more than 12.5 percent alcohol by volume called "mixed spirit beverages."

This bill would require all mixed spirit beverages, other than those distributed by the Alcoholic Beverage Control Board, to be distributed through a licensed wholesaler and sold to licensed retailers in Alabama for on-premises and off-premises consumption.

This bill would require each importer and manufacturer of mixed spirit beverages to designate sales territories for each of its brands and enter into an exclusive franchise agreement with a licensed wholesaler for each sales territory.

This bill would set conditions and requirements for franchise agreements between suppliers and wholesale distributors of mixed spirit beverages, including provisions for the modification, termination,



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29 cancellation, nonrenewal, or discontinuance of an  
30 agreement.

31 This bill would provide for the levy of a  
32 privilege or excise tax on mixed spirit beverages.

33 This bill would also make nonsubstantive,  
34 technical revisions to update the existing code  
35 language to current style.

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A BILL

40

TO BE ENTITLED

41

AN ACT

42

43 Relating to alcoholic beverages; to amend Sections  
44 28-3-1, 28-3A-3, 28-3A-21, and 28-3A-23, Code of Alabama 1975  
45 and add Sections 28-3-208, 28-3A-9.1, and 28-3A-17.2 to the  
46 Code of Alabama 1975; to define a new category of low-alcohol  
47 content liquor beverages called mixed spirit beverages; to  
48 require all mixed spirit beverages, other than those  
49 distributed by the Alcoholic Beverage Control Board, to be  
50 distributed through a licensed wholesaler; to levy taxes upon  
51 the distribution of these beverages; to provide for licensure  
52 of retailers of mixed spirit beverages and set a fee for  
53 licensure; to add Chapter 8B to Title 28 of the Code of  
54 Alabama 1975; to require licensed importers, manufacturers,  
55 and suppliers of mixed spirit beverages to enter into  
56 exclusive franchise agreements with wholesalers; to exempt



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57 from the wholesaler franchise laws mixed spirit beverages  
58 distributed by the Alcoholic Beverage Control Board and sold  
59 at retail at ABC stores; and to make nonsubstantive, technical  
60 revisions to update the existing code language to current  
61 style.

62 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

63         Section 1. The Legislature hereby finds and declares  
64 that this act is enacted pursuant to the authority granted to  
65 the state under the Twenty-First Amendment to the United  
66 States Constitution, the powers reserved to the state under  
67 the Tenth Amendment to the United States Constitution, and the  
68 inherent powers of the state under the Constitution of Alabama  
69 of 2022, in order to regulate the traffic of alcoholic  
70 beverages and to substitute the regulations and oversight  
71 established in this act for the application of federal and  
72 state antitrust laws that otherwise would apply to any  
73 potential anti-competitive effects of this title. For the  
74 avoidance of doubt, the intent of the Legislature is to  
75 maintain the uniform three-tier system of control over the  
76 sale, purchase, taxation, transportation, manufacture,  
77 consumption, and possession of alcoholic beverages in the  
78 state to promote the health, safety, and welfare of residents  
79 of this state by, among other purposes, ensuring the state  
80 shall be able to register, audit, inspect, seize, recall, and  
81 test alcoholic beverages shipped into, distributed, and sold  
82 throughout this state; and this expression of the policy and  
83 intent of the Legislature is intended to satisfy the clear  
84 articulation test for state action immunity as has been



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85 established by the United States Supreme Court in California  
86 Retail Liquor Dealers Assn. v. Midcal Aluminum, Inc., et al.

87 Section 2. Section 28-3-1, Code of Alabama 1975, is  
88 amended to read as follows:

89 "§28-3-1

90 As used in this title, the following words ~~shall~~ have  
91 the following meanings unless the context clearly indicates  
92 otherwise:

93 (1) ALCOHOLIC BEVERAGES. Any alcoholic, spirituous,  
94 vinous, fermented, or other alcoholic beverage, or combination  
95 of liquors and mixed liquor, a part of which is spirituous,  
96 vinous, fermented, or otherwise alcoholic, and all drinks or  
97 drinkable liquids, preparations, or mixtures intended for  
98 beverage purposes, which contain one-half of one percent or  
99 more of alcohol by volume, ~~and shall include.~~ The term  
100 includes liquor, beer, ~~and wine,~~ and mixed spirit beverages.

101 (2) ASSOCIATION. A partnership, limited partnership, or  
102 any form of unincorporated enterprise owned by two or more  
103 persons.

104 (3) BEER, or MALT OR BREWED BEVERAGES. Any beer, lager  
105 beer, ale, porter, malt or brewed beverage, or similar  
106 fermented beverage containing one-half of one percent or more  
107 of alcohol by volume and not in excess of ~~thirteen and~~  
108 ~~nine-tenths~~ 13.9 percent alcohol by volume, brewed or produced  
109 from malt, wholly or in part, or from rice, grain of any kind,  
110 bran, glucose, sugar, or molasses. A beer or malt or brewed  
111 beverage may incorporate honey, fruit, fruit juice, fruit  
112 concentrate, herbs, spices, or other flavorings during the



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113 fermentation process. The term does not include any product  
114 defined as liquor, table wine, or wine.

115 (4) BOARD. The Alcoholic Beverage Control Board.

116 (5) BRANDY. All beverages that are an alcoholic  
117 distillate from the fermented juice, mash, or wine of fruit,  
118 or from the residue thereof, produced in such manner that the  
119 distillate possesses the taste, aroma, and characteristics  
120 generally attributed to the beverage, as bottled at not less  
121 than 80 degree proof.

122 (6) CARTON. The package or container or containers in  
123 which alcoholic beverages are originally packaged for shipment  
124 to market by the manufacturer or its designated  
125 representatives or the importer.

126 (7) CIDER. A fermented alcoholic beverage made from  
127 apple juice and containing not more than 8.5 percent alcohol  
128 by volume.

129 (8) CLUB.

130 a. Class I. A corporation or association organized or  
131 formed in good faith by authority of law and which must have  
132 at least 150 paid-up members. It must be the owner, lessee, or  
133 occupant of an establishment operated solely for the objects  
134 of a national, social, patriotic, political, or athletic  
135 nature or the like, but not for pecuniary gain, and the  
136 property as well as the advantages of which, belong to all the  
137 members and which maintains an establishment provided with  
138 special space and accommodations where, in consideration of  
139 payment, food with or without lodging is habitually served.  
140 The club shall hold regular meetings, continue its business



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141 through officers regularly elected, admit members by written  
142 application, investigation, and ballot, and charge and collect  
143 dues from elected members.

144           b. Class II. A corporation or association organized or  
145 formed in good faith by authority of law and which must have  
146 at least 100 paid-up members. It must be the owner, lessee, or  
147 occupant of an establishment operated solely for the objects  
148 of a national, social, patriotic, political, or athletic  
149 nature or the like. The club shall hold regular meetings,  
150 continue its business through officers regularly elected,  
151 admit members by written application, investigation, and  
152 ballot, and charge and collect dues from elected members.

153           (9) CONTAINER. The single bottle, can, keg, bag, or  
154 other receptacle, but not a carton, in which alcoholic  
155 beverages are originally packaged for the market by the  
156 manufacturer or importer and from which the alcoholic beverage  
157 is consumed by or dispensed to the public.

158           (10) CORPORATION. A corporation or joint stock  
159 association organized under the laws of this state, the United  
160 States, or any other state, territory, or foreign country, or  
161 dependency.

162           (11) DELIVERY. The transportation of alcoholic  
163 beverages directly from a retail licensee of the board to an  
164 individual, pursuant to Section 28-1-4 and Section 28-3A-13.1.

165           (12) DELIVERY SERVICE LICENSE. A license issued by the  
166 Alabama Alcoholic Beverage Control Board in accordance with  
167 Section 28-3A-13.1 that authorizes the licensee, the  
168 licensee's employees, or independent contractors under a



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169 contractual or business arrangement with the licensee to  
170 transport and deliver alcoholic beverages.

171 (13) DRY COUNTY. Any county which by a majority of  
172 those voting voted in the negative in an election ~~heretofore~~  
173 held under the applicable statutes at the time of the election  
174 or may hereafter vote in the negative in an election or  
175 special method referendum hereafter held in accordance with  
176 Chapter 2, or held in accordance with ~~the provisions of any~~  
177 act hereafter enacted permitting such election.

178 (14) DRY MUNICIPALITY. Any municipality within a wet  
179 county which has, by its governing body or by a majority of  
180 those voting in a municipal election heretofore held in  
181 accordance with the provisions of Section 28-2-22, or in a  
182 municipal option election heretofore or hereafter held in  
183 accordance with ~~the provisions of Act 84-408, Acts of Alabama~~  
184 ~~1984, appearing as~~ Chapter 2A, or any act hereafter enacted  
185 permitting municipal option election, voted to exclude the  
186 sale of alcoholic beverages within the corporate limits of the  
187 municipality.

188 (15) EMPLOYEE. An individual to whom an employer is  
189 required to issue a W-2 tax form under federal law.

190 (16) GENERAL WELFARE PURPOSES. All of the following:

191 a. The administration of public assistance as set out  
192 in Sections 38-2-5 and 38-4-1.

193 b. Services, including supplementation and  
194 supplementary services under the federal Social Security Act,  
195 to or on behalf of persons to whom public assistance may be  
196 given under Sections 38-2-5 and 38-4-1.





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197 c. Service to and on behalf of dependent, neglected, or  
198 delinquent children.

199 d. Investigative and referral services to and on behalf  
200 of needy persons.

201 (17) HEARING COMMISSION. A body appointed by the board  
202 to hear and decide all contested license applications and all  
203 disciplinary charges against any licensee for violation of  
204 this title or the rules of the board.

205 (18) HOTEL. A building or buildings held out to the  
206 public for housing accommodations of travelers or transients,  
207 and shall include motel, but shall not include a rooming house  
208 or boarding house.

209 (19) IMPORTER. Any person, association, or corporation  
210 engaged in importing alcoholic beverages, liquor, wine, ~~or~~  
211 beer, or mixed spirit beverages manufactured outside of the  
212 United States of America into this state or for sale or  
213 distribution in this state, or to the board or to a licensee  
214 of the board.

215 (20) INDEPENDENT CONTRACTOR. An individual to whom an  
216 employer is required to issue a 1099 tax form under federal  
217 law.

218 (21) KEG. A pressurized factory sealed container with a  
219 capacity equal to or greater than five U.S. gallons, from  
220 which beer is withdrawn by means of an external tap.

221 (22) LIQUOR. Any alcoholic, spirituous, vinous,  
222 fermented, or other alcoholic beverage, or combination of  
223 liquors and mixed liquor, a part of which is spirituous,  
224 fermented, vinous, or otherwise alcoholic, and all drinks or



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225 drinkable liquids, preparations, or mixtures intended for  
226 beverage purposes, which contain one-half of one percent or  
227 more of alcohol by volume, except beer and table wine.

228 (23) LIQUOR STORE. A liquor store operated by the  
229 board, where alcoholic beverages other than beer are  
230 authorized to be sold in unopened containers.

231 (24) MANUFACTURER. Any person, association, or  
232 corporation engaged in the producing, bottling, manufacturing,  
233 distilling, fermenting, brewing, rectifying, or compounding of  
234 alcoholic beverages, liquor, beer, ~~or~~ wine, or mixed spirit  
235 beverages in this state or for sale or distribution in this  
236 state or to the board or to a licensee of the board.

237 (25) MEAD. An alcoholic beverage produced by fermenting  
238 a solution of honey and water with grain mash and containing  
239 not more than 18 percent alcohol by volume.

240 (26) MEAL. A diversified selection of food some of  
241 which is not susceptible of being consumed in the absence of  
242 at least some articles of tableware and which cannot be  
243 conveniently consumed while one is standing or walking about.

244 (27) MINOR. Any person under 21 years of age; provided,  
245 however, in the event Section 28-1-5~~7~~ shall be repealed or  
246 otherwise shall be no longer in effect, ~~thereafter~~ the  
247 provisions of Section 26-1-1, shall govern.

248 (28) MIXED SPIRIT BEVERAGE. A single-serve beverage  
249 containing liquor, packaged in a can or a container approved  
250 by the board no larger than 16 ounces, and which contains no  
251 more than 12.5 percent alcohol by volume. The term does not  
252 include any beverage containing liquor over 16 ounces in size,



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253 or of more than 12.5 percent alcohol by volume.

254 ~~(28)~~ (29) MUNICIPALITY. Any incorporated city or town of  
255 this state to include its police jurisdiction.

256 ~~(29)~~ (30) PERSON. Every natural person, association, or  
257 corporation. Whenever used in a clause prescribing or imposing  
258 a fine or imprisonment, or both, such term as applied to  
259 association shall mean the partners or members thereof and as  
260 applied to corporation shall mean the officers thereof, except  
261 as to incorporated clubs the term person shall mean such  
262 individual or individuals who, under the bylaws of such clubs,  
263 shall have jurisdiction over the possession and sale of liquor  
264 therein.

265 ~~(30)~~ (31) POPULATION. The population according to the  
266 last preceding or any subsequent decennial census of the  
267 United States, except where a municipality is incorporated  
268 subsequent to the last census, in which event, its population  
269 until the next decennial census shall be the population of the  
270 municipality as determined by the judge of probate of the  
271 county as the official population on the date of its  
272 incorporation.

273 ~~(31)~~ (32) RESTAURANT. A reputable place licensed as a  
274 restaurant, operated by a responsible person of good  
275 reputation and habitually and principally used for the purpose  
276 of preparing and serving meals for the public to consume on  
277 the premises.

278 ~~(32)~~ (33) RETAILER. Any person licensed by the board to  
279 engage in the retail sale of any alcoholic beverages to the  
280 consumer.



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281           ~~(33)~~ (34) SALE or SELL. Any transfer of liquor, wine, ~~or~~  
282 beer, or mixed spirit beverages for a consideration, and any  
283 gift in connection with, or as a part of, a transfer of  
284 property other than liquor, wine, ~~or~~ beer, or mixed spirit  
285 beverages for a consideration.

286           ~~(34)~~ (35) SELLING PRICE. The total marked-up price of  
287 spirituous or vinous liquors sold by the board, exclusive of  
288 taxes levied thereon.

289           ~~(35)~~ (36) TABLE WINE. Except as otherwise provided in  
290 this subdivision, any wine containing not more than 24 percent  
291 alcohol by volume. Table wine does not include any wine  
292 containing more than ~~sixteen and one-half~~ 16.5 percent alcohol  
293 by volume that is made with herbs or flavors, except vermouth,  
294 or is an imitation or other than standard wine. Table wine is  
295 not liquor, spirituous, or vinous.

296           ~~(36)~~ (37) UNOPENED CONTAINER. A container containing  
297 alcoholic beverages, which has not been opened or unsealed  
298 subsequent to filling and sealing by the manufacturer or  
299 importer.

300           ~~(37)~~ (38) WET COUNTY. Any county which by a majority of  
301 those voting voted in the affirmative in an election  
302 heretofore held in accordance with the statutes applicable at  
303 the time of the election or may hereafter vote in the  
304 affirmative in an election or special method referendum held  
305 in accordance with Chapter 2, or other statutes applicable at  
306 the time of the election.

307           ~~(38)~~ (39) WET MUNICIPALITY. Any municipality in a dry  
308 county which by a majority of those voting voted in the



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309 affirmative in a municipal option election heretofore or  
310 hereafter held in accordance with ~~the provisions of Act~~  
311 ~~84-408, Acts of Alabama 1984, appearing as~~ Chapter 2A ~~of this~~  
312 ~~title, as amended,~~ or any act hereafter enacted permitting  
313 municipal option election, or any municipality which became  
314 wet by vote of the governing body or by the voters of the  
315 municipality heretofore or hereafter held under the special  
316 method referendum provisions of Section 28-2-22, or as  
317 hereafter provided, where the county has become dry subsequent  
318 to the elected wet status of the municipality.

319 ~~(39)~~ (40) WHOLESALER. Any person licensed by the board  
320 to engage in the sale and distribution of table wine, ~~and~~  
321 beer, or mixed spirit beverages, or ~~either of them~~ any  
322 combination thereof, within this state, at wholesale only, to  
323 be sold by export or to retail licensees or other wholesale  
324 licensees or others within this state lawfully authorized to  
325 sell table wine, ~~and~~ beer, or mixed spirit beverages, or  
326 ~~either of them~~ any combination thereof, for the purpose of  
327 resale only.

328 ~~(40)~~ (41) WINE. All beverages made from the fermentation  
329 of fruits, berries, or grapes, with or without added spirits,  
330 and produced in accordance with the laws and regulations of  
331 the United States, containing not more than 24 percent alcohol  
332 by volume, and shall include all sparkling wines, carbonated  
333 wines, special natural wines, rectified wines, vermouths,  
334 vinous beverages, vinous liquors, and like products, including  
335 restored or unrestored pure condensed juice."

336 Section 3. Section 28-3-208 is added to the Code of



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337 Alabama 1975, to read as follows:

338 §28-3-208

339 (a) Levy. There is hereby levied, in addition to the  
340 license taxes provided for by this chapter and municipal and  
341 county license taxes, a privilege or excise tax measured by  
342 and graduated in accordance with the volume of sales of mixed  
343 spirit beverages. The tax shall be an amount equal to  
344 ninety-eight cents (\$.98) per 12 fluid ounces or fractional  
345 part thereof.

346 (b) Collection, Monthly Return, Remittance, Right to  
347 Examine Books and Records.

348 (1)a. The tax levied by subsection (a) shall be added  
349 to the sales price of all mixed spirit beverages and shall be  
350 collected from the retail purchasers. The tax shall be  
351 collected in the first instance from the wholesaler where  
352 mixed spirit beverages are sold or handled by wholesale  
353 licensees.

354 b. It shall be unlawful for any person who is required  
355 to pay the tax in the first instance to fail or refuse to add  
356 to the sales price and collect from the purchaser the required  
357 amount of tax, it being the intent and purpose of this section  
358 that the tax levied is in fact a levy on the retail purchaser.  
359 The person who pays the tax in the first instance is acting as  
360 an agent of the state for the collection and payment of the  
361 tax and as such may not collect a tax on mixed spirit  
362 beverages for any other level of government.

363 (2) The tax levied by subsection (a) shall be collected  
364 by a monthly return, which shall be filed by wholesale



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365 licensees as follows:

366           a. A monthly return shall be filed with the board on a  
367 form as prescribed or approved by the board by rule not later  
368 than the 15th day of the second month following the month of  
369 receipt of mixed spirit beverages by the wholesaler, showing  
370 receipts by the wholesaler from manufacturer, importer, or  
371 other wholesaler licensees during the month of receipt and the  
372 taxes due thereon at the rate of ninety cents (\$.90) per 12  
373 fluid ounces or fractional part thereof of mixed spirit  
374 beverages purchased by the wholesaler licensee. The taxes due  
375 under this paragraph shall be remitted to the board along with  
376 the return.

377           b. A monthly return shall be filed with the county or  
378 municipality within which the mixed spirit beverage is sold at  
379 retail not later than the 15th day of each month, showing  
380 sales by wholesalers during the preceding month and the county  
381 or municipality in which sold and the taxes due thereon at the  
382 rate of eight cents (\$.08) per 12 fluid ounces or fractional  
383 part thereof. The taxes due under this paragraph shall be  
384 remitted to the county or municipality along with the return.

385           (3) The board and the governing body of each county and  
386 municipality served by the wholesaler may examine the books  
387 and records of any person who sells, stores, or receives for  
388 the purpose of distribution any mixed spirit beverages, to  
389 determine the accuracy of any return required to be filed with  
390 it.

391           (c) Disposition of proceeds. The proceeds of the tax  
392 levied by subsection (a) and remitted by subsection (b) shall



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393 be paid and distributed as follows:

394 (1) Sixty-five cents (\$.65) per 12 fluid ounces or  
395 fractional part thereof of mixed spirit beverages taxes  
396 remitted by wholesalers to the board shall be deposited by the  
397 board to the State General Fund.

398 (2) Ten cents (\$.10) per 12 fluid ounces or fractional  
399 part thereof of mixed spirit beverages taxes remitted by  
400 wholesalers to the board shall be retained by the board for  
401 regulatory and administrative purposes.

402 (3) Fifteen cents (\$.15) per 12 fluid ounces or  
403 fractional part thereof of mixed spirit beverages taxes  
404 remitted by wholesalers to the board shall be remitted by  
405 wholesalers and divided equally between the board and the  
406 Alabama State Law Enforcement Agency to be retained by each  
407 for purposes of enforcement.

408 (4) Eight cents (\$.08) per 12 fluid ounces or  
409 fractional part thereof of mixed spirit beverages sold shall  
410 be remitted by wholesalers either into the treasury of the  
411 municipality in which the mixed spirit beverages were sold  
412 within its corporate limits or, where sold outside the  
413 corporate limits of any municipality, into the treasury of the  
414 county in which the mixed spirit beverages were sold;  
415 provided, where the taxes are timely paid to the county or  
416 municipality, the tax due to the county or municipality shall  
417 be discounted by two and one-half percent, which discount  
418 shall be retained by the wholesaler for collecting the tax.

419 (d) Taxes exclusive. The taxes levied pursuant to this  
420 section are exclusive and shall be in lieu of all other and





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421 additional taxes and licenses of the state, county, or  
422 municipality imposed on or measured by the sale or volume of  
423 sale of mixed spirit beverages; provided, however, nothing  
424 contained in this section shall be construed to exempt the  
425 retail sale of mixed spirit beverages from the levy of tax on  
426 general retail sales by the state, county, or municipality in  
427 the nature of, or in lieu of, a general sales tax.

428 (e) Trade between wholesalers exempt. The taxes levied  
429 by subsection (a) shall not be imposed upon the sale, trade,  
430 or barter of mixed spirit beverages by one licensed wholesaler  
431 to another wholesaler licensed to sell and handle mixed spirit  
432 beverages in this state, which transaction is hereby made  
433 exempt from the tax; provided, however, the board may require  
434 written reporting of any transaction in the form as the board  
435 by rule may prescribe.

436 (f) County and municipal license fees. Each county and  
437 municipality may fix a reasonable privilege or license fee on  
438 retailer, importer, and wholesaler licensees, for the purpose  
439 of covering the cost of administration with respect to the  
440 sale of mixed spirit beverages, but not to generate revenue;  
441 provided, however, a county or municipality may not levy a  
442 license or privilege tax or other charge for the privilege of  
443 doing business as a mixed spirit beverages retailer, importer,  
444 or wholesaler which exceeds one-half the amount of the state  
445 license fee.

446 Section 4. Section 28-3A-3, Code of Alabama 1975, is  
447 amended to read as follows:

448 "§28-3A-3



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449 (a) (1) Subject to this chapter and rules adopted  
450 thereunder, the board may issue and renew licenses to  
451 reputable and responsible persons for the following purposes:

452 ~~(1)~~a. To manufacture, brew, distill, ferment, rectify,  
453 bottle, or compound ~~any or all~~ alcoholic beverages within or  
454 for sale within this state.

455 ~~(2)~~b. To import ~~any or all~~ alcoholic beverages  
456 manufactured outside the United States into this state or for  
457 sale or distribution within this state.

458 ~~(3)~~c. To distribute, wholesale, or act as jobber for  
459 the sale of liquor.

460 ~~(4)~~d. To distribute, wholesale, or act as jobber for  
461 the sale of table wine and beer or either of them, to licensed  
462 retailers within the state and others within this state  
463 lawfully authorized to sell table wine or beer.

464 ~~(5)~~e. To store or warehouse ~~any or all~~ alcoholic  
465 beverages for transshipment inside and outside the state.

466 ~~(6)~~f. To sell and dispense at retail in a lounge,  
467 liquor and other alcoholic beverages.

468 ~~(7)~~g. To sell and dispense at retail, in an  
469 establishment habitually and principally used for the purpose  
470 of providing meals for the public, liquor and other alcoholic  
471 beverages for on-premises consumption.

472 ~~(8)~~h. To sell liquor and wine at retail for  
473 off-premises consumption.

474 ~~(9)~~i. To sell and dispense at retail in a club, liquor  
475 and other alcoholic beverages for on-premises consumption.

476 ~~(10)~~j. To sell table wine at retail for off-premises



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477 consumption.

478 ~~(11)~~k. To sell table wine at retail for on-premises and  
479 off-premises consumption.

480 ~~(12)~~l. To sell beer at retail for on-premises and  
481 off-premises consumption.

482 ~~(13)~~m. To sell beer at retail for off-premises  
483 consumption.

484 n. To sell mixed spirit beverages at retail for  
485 on-premises and off-premises consumption.

486 o. To sell mixed spirit beverages at retail for  
487 off-premises consumption.

488 ~~(14)~~p. To sell liquor and other alcoholic beverages at  
489 retail by a retail common carrier with a passenger capacity of  
490 at least 10 people.

491 ~~(15)~~q. To sell ~~any or all~~ alcoholic beverages at retail  
492 under special license issued conditioned upon terms and  
493 conditions and for the period of time prescribed by the board.

494 ~~(16)~~r. To sell ~~any or all~~ alcoholic beverages at retail  
495 under a special event retail license issued for three days  
496 upon the terms and conditions prescribed by the board.

497 ~~(2) Provided, however, that the~~ Notwithstanding  
498 subdivision (1), licenses authorized under subdivision (1) may  
499 not be issued in dry counties where traffic in alcoholic  
500 beverages is not authorized by law, ~~therein~~ except a wine  
501 manufacturer license may be issued in a dry county pursuant to  
502 Section 28-7-10.1. Provided the restriction of this  
503 ~~paragraph~~ subdivision shall not apply to the issuance of a  
504 renewal of a license under ~~subdivisions (1), (2), (3), (4),~~



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505 ~~and (5)~~ paragraphs (1)a., (1)b., (1)c., (1)d., or (1)e. where  
506 the county or municipality was wet when the initial license  
507 was issued and the county or municipality subsequently votes  
508 dry; however, no importer or wholesaler licensee may sell or  
509 distribute alcoholic beverages within a dry county, except in  
510 a wet municipality therein, or within a dry municipality.

511 (b) The board is granted discretionary powers in acting  
512 upon license applications under the provisions of this  
513 chapter.

514 (c) Licenses issued under this chapter, unless revoked  
515 or suspended in the manner provided in this chapter, shall be  
516 valid for the license year which shall begin on the first day  
517 of October of each year, unless otherwise established by this  
518 chapter or by the board. Licenses may be issued at any time  
519 during the year."

520 Section 5. Sections 28-3A-9.1 and 28-3A-17.2 are added  
521 to the Code of Alabama 1975, to read as follows:

522 §28-3A-9.1

523 (a) Upon payment of the applicable fee for a mixed  
524 spirit beverage wholesaler license as established in Section  
525 28-3A-21, the board shall issue to a wholesaler licensed to  
526 distribute beer or table wine as provided in Section 28-3A-9 a  
527 mixed spirit beverage wholesaler license.

528 (b) A mixed spirit beverage wholesale license shall  
529 authorize the licensee to do all of the following:

530 (1) Import and receive shipments of mixed spirit  
531 beverages from outside the state from licensed manufacturers.

532 (2) Purchase mixed spirit beverages from licensed



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533 manufacturers or other licensed wholesalers within the state.

534 (3) Sell at wholesale or distribute mixed spirit  
535 beverages to all licensees or other persons within this state  
536 lawfully authorized to sell mixed spirit beverages within the  
537 state.

538 (4) Export mixed spirit beverages from the state.

539 (c) Sales to all authorized persons shall be in  
540 original packages or containers as prepared for the market by  
541 the manufacturer.

542 (d) (1) Except as provided in subdivision (2), no person  
543 shall sell at wholesale or distribute mixed spirit beverages  
544 within this state or to licensees of the board unless the  
545 person is issued by the board a wholesaler license to  
546 distribute mixed spirit beverages.

547 (2) Notwithstanding this section, Section 28-3A-17.2,  
548 or Chapter 8B, the board shall have the authority to act as a  
549 wholesaler of mixed spirit beverages, provided the board, as a  
550 wholesaler, shall only distribute mixed spirit beverages to  
551 liquor stores operated by the board.

552 §28-3A-17.2

553 (a) Upon payment of the limited mixed spirit beverage  
554 expanded retail license fee as established in Section  
555 28-3A-21, the board shall issue a limited mixed spirit  
556 beverage expanded retail license to any person who holds and  
557 possesses any of the following:

558 (1) A valid retail table wine license for on-premises  
559 and off-premises consumption as provided for in Section  
560 28-3A-14.



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561 (2) A valid retail table wine license for off-premises  
562 consumption as provided for in Section 28-3A-15.

563 (3) A valid retail beer license for on-premises and  
564 off-premises consumption as provided for in Section 28-3A-16.

565 (4) A valid retail beer license for off-premises  
566 consumption as provided for in Section 28-3A-17.

567 (b) Upon written request to the board and without  
568 payment of any additional fee, the board shall issue a limited  
569 mixed spirit beverage expanded retail license to any person  
570 who holds and possesses any of the following:

571 (1) A valid lounge retail liquor license as provided  
572 for in Section 28-3A-11.

573 (2) A valid club liquor license as provided for in  
574 Section 28-3A-12.

575 (3) A valid restaurant retail liquor license as  
576 provided for in Section 28-3A-13.

577 (4) A special events retail license as provided for in  
578 Section 28-3A-20.

579 (c) A license issued under this section shall authorize  
580 the licensee to purchase mixed spirit beverages from a  
581 licensed mixed spirit beverage wholesaler and sell the mixed  
582 spirit beverages at retail, commensurate with the privileges  
583 granted to a licensee to sell at retail beer and table wine.

584 (d) The board shall retain all limited mixed spirit  
585 beverage expanded retail license fees collected. The board may  
586 use collected fees for regulatory and administrative purposes  
587 as determined by the board, including for the purposes of  
588 establishing and maintaining a cost of evidence fund to assist



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589 in regulatory functions of the board.

590 (e) Upon payment of a limited mixed spirit beverage  
591 expanded retail license fee, there shall be no additional  
592 licensing or administrative requirements, including no  
593 requirement for additional background checks, imposed by a  
594 municipality, a county, or the state for licensees for the  
595 sale of mixed spirit beverages.

596 Section 6. Sections 28-3A-21 and 28-3A-23, Code of  
597 Alabama 1975, are amended to read as follows:

598 "§28-3A-21

599 (a) The following annual license fees are levied and  
600 prescribed for licenses issued and renewed by the board  
601 pursuant to the authority contained in this chapter:

602 (1) Manufacturer license, license fee of five hundred  
603 dollars (\$500).

604 (2) Importer license, license fee of five hundred  
605 dollars (\$500).

606 (3) Liquor wholesale license, license fee of five  
607 hundred dollars (\$500).

608 (4) ~~Wholesaler~~ Beer wholesaler license, ~~beer~~-license  
609 fee of five hundred fifty dollars (\$550) ~~or wine license fee~~  
610 ~~of five hundred fifty dollars (\$550); license fee for beer and~~  
611 ~~wine of seven hundred fifty dollars (\$750);~~ plus two hundred  
612 dollars (\$200) for each warehouse in addition to the principal  
613 warehouse.

614 (5) Wine wholesaler license, license fee of five  
615 hundred fifty dollars (\$550) plus two hundred dollars (\$200)  
616 for each warehouse in addition to the principal warehouse.



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617 (6) Mixed spirit beverage wholesaler license, license  
618 fee of five hundred fifty dollars (\$550) plus two hundred  
619 dollars (\$200) for each warehouse in addition to the principal  
620 warehouse.

621 (7) Beer, wine, and mixed spirit beverage wholesaler  
622 license, license fee of one thousand dollars (\$1,000) plus two  
623 hundred dollars (\$200) for each warehouse in addition to the  
624 principal warehouse.

625 ~~(5)~~ (8) Warehouse license, license fee of two hundred  
626 dollars (\$200).

627 ~~(6)~~ (9) Lounge retail liquor license, license fee of  
628 three hundred dollars (\$300).

629 ~~(7)~~ (10) Restaurant retail liquor license, license fee  
630 of three hundred dollars (\$300).

631 ~~(8)~~ (11) Club liquor license, Class I license fee of  
632 three hundred dollars (\$300), Class II license fee of seven  
633 hundred fifty dollars (\$750).

634 ~~(9)~~ (12) Retail table wine license for off-premises  
635 consumption, license fee of one hundred fifty dollars (\$150).

636 ~~(10)~~ (13) Retail table wine license for on-premises and  
637 off-premises consumption, license fee of one hundred fifty  
638 dollars (\$150).

639 ~~(11)~~ (14) Retail beer license for on-premises and  
640 off-premises consumption, license fee of one hundred fifty  
641 dollars (\$150).

642 ~~(12)~~ (15) Retail beer license for off-premises  
643 consumption, license fee of one hundred fifty dollars (\$150).

644 ~~(13)~~ (16) Retail common carrier liquor license, license





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645 fee of one hundred fifty dollars (\$150) for each railroad,  
646 airline, bus line, ship line, vessel, or other common carrier  
647 entity with a vehicle passenger capacity of at least 10  
648 people.

649 ~~(14)~~ (17) Special retail license, license fee of one  
650 hundred dollars (\$100) for 30 days or less; license fee of two  
651 hundred fifty dollars (\$250) for more than 30 days.

652 ~~(15)~~ (18) Special events retail license, license fee of  
653 one hundred fifty dollars (\$150).

654 (19) Limited mixed spirit beverage expanded retail  
655 license, license fee of five hundred dollars (\$500).

656 (b) The license fees levied and fixed by this section  
657 shall be paid before the license is issued or renewed.

658 (c) In addition to the ~~foregoing~~ filing fee and license  
659 taxes or fees, levied and fixed by this section, any county or  
660 municipality in which the sale of alcoholic beverages is  
661 permitted ~~shall be authorized to~~ may fix and levy privileges  
662 or license taxes on any of the foregoing licenses located or  
663 operated therein, conditioned on a permit or license being  
664 issued by the board.

665 (d) No county or municipality shall have any authority  
666 to levy a license or tax of any nature on any liquor store."

667 "§28-3A-23

668 (a) No license prescribed in this ~~code~~ chapter shall be  
669 issued or renewed until the provisions of this ~~code~~ title have  
670 been complied with and the filing and license fees other than  
671 those levied by a municipality are paid to the board.

672 (b) Licenses shall be granted and issued by the board



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673 only to reputable individuals, to associations whose members  
674 are reputable individuals, or to reputable corporations  
675 organized under the laws of this state or duly qualified  
676 thereunder to do business in Alabama, or, in the case of  
677 manufacturers, duly registered under the laws of Alabama, and  
678 then only when it appears that all officers and directors of  
679 the corporation are reputable individuals.

680 (c) (1) In addition to all other requirements, an  
681 applicant for a license under this section shall submit to the  
682 board a form, sworn to by the applicant, providing written  
683 consent from the applicant for the release of criminal history  
684 background information. The form shall also require the  
685 applicant's name, date of birth, and Social Security number  
686 for completion of a criminal history background check.

687 (2) An applicant shall provide the board with two  
688 complete functional sets of fingerprints, either cards or  
689 electronic, properly executed by a criminal justice agency or  
690 an individual properly trained in fingerprinting techniques.  
691 The fingerprints and form shall be submitted by the board to  
692 the State Bureau of Investigations, or any entity contracted  
693 with, for the purposes of furnishing criminal background  
694 checks. The State Bureau of Investigations or contracted  
695 entity shall forward a copy of the applicant's prints to the  
696 Federal Bureau of Investigation for a national criminal  
697 background check. The applicant shall pay all costs associated  
698 with the background checks required by this section.

699 (3) For purposes of this section, the term "applicant"  
700 shall include every person who has any proprietary or profit



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701 interest of 10 percent or more in the licensed establishment,  
702 but shall not include any public corporation whose shares are  
703 traded on a recognized stock exchange.

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

709 (d) Every license issued under this ~~code~~ chapter shall  
710 be constantly and conspicuously displayed on the licensed  
711 premises.

712 (e) Each retail liquor license application must be  
713 approved by the governing authority of the municipality if the  
714 retailer is located in a municipality, or by the county  
715 commission if the retailer is located in the county and  
716 outside the limits of the municipality, before the board shall  
717 have authority to grant the license.

718 (f) Any retailer may be granted licenses to maintain,  
719 operate, or conduct any number of places for the sale of  
720 alcoholic beverages, but a separate license must be secured  
721 for each place where alcoholic beverages are sold. No retail  
722 license issued under this ~~code~~ chapter shall be used for more  
723 than one premises, nor for separate types of operation on the  
724 same premises. Provided, however, any such licensed retail  
725 operation existing on May 14, 2009, and operating based on  
726 dual licenses, both a club or lounge license and a restaurant  
727 license, on the same premises shall be exempt from the  
728 requirement of the preceding sentence and may continue to



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729 operate under such dual licenses. Any rule adopted by the  
730 board relating to the requirements concerning dual licenses,  
731 both a club or lounge license and a restaurant license, shall  
732 not apply to any retail operation existing on May 14, 2009.  
733 The aforementioned rules shall include, but not be limited to,  
734 the maintenance of separate books, separate entrances, and  
735 separate inventories. Each premises must have a separate  
736 retail license. Where more than one retail operation is  
737 located within the same building, each operation under a  
738 separate or different ownership is required to obtain a  
739 separate retail license; and where more than one type of  
740 retail operation located within the same building is operated  
741 by the same licensee, the licensee must have a license for  
742 each type of retail operation. Provided, there shall be no  
743 licenses issued by the board for the sale of liquor, beer, or  
744 wine by rolling stores.

745 (g) No retailer shall sell any alcoholic beverages for  
746 consumption on the licensed premises except in a room or rooms  
747 or place on the licensed premises at all times accessible to  
748 the use and accommodation of the general public; but this  
749 section shall not be interpreted to prevent a hotel or club  
750 licensee from selling alcoholic beverages in any room of the  
751 hotel or club house occupied by a bona fide registered guest  
752 or member or private party entitled to purchase the same.

753 (h) All beer, except draft or keg beer, sold by  
754 retailers must be sold or dispensed in bottles, cans, or other  
755 containers not to exceed 25.4 ounces. All wine sold by  
756 retailers for off-premises consumption must be sold or



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757 dispensed in bottles or other containers in accordance with  
758 the standards of fill specified in the then effective  
759 standards of fill for wine prescribed by the U.S. Treasury  
760 Department.

761 (i) Draft or keg beer may be sold or dispensed within  
762 this state within those counties in which and in the manner in  
763 which the sale of draft or keg beer was authorized by law on  
764 September 30, 1980, or in which the sale of draft or keg beer  
765 is hereafter authorized by law. In rural communities with a  
766 predominantly foreign population, after the payment of the tax  
767 imposed by this title, draft or keg beer may be sold or  
768 dispensed by special permit from the board, when, in the  
769 judgment of the board, the use and consumption of draft or keg  
770 beer is in accordance with the habit and customs of the people  
771 of any such rural community. The board may grant to any civic  
772 center authority or its franchisee or concessionaire, to which  
773 the board may have issued or may simultaneously issue a retail  
774 license under the provisions of this code, a revocable  
775 temporary permit to sell or dispense in any part of its civic  
776 center, for consumption therein, draft or keg beer. Either  
777 such permit shall be promptly revoked by the board if, in its  
778 judgment, the same tends to create intemperance or is  
779 prejudicial to the welfare, health, peace, temperance, and  
780 safety of the people of the community or of the state.

781 (j) No importer shall sell alcoholic beverages to any  
782 person other than a wholesaler licensee, or sell to a  
783 wholesaler licensee any brand or brands of alcoholic beverages  
784 for sale or distribution in this state, except where the



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785 importer has been granted written authorization from the  
786 manufacturer thereof to import and sell the brand or brands to  
787 be sold in this state, which authorization is on file with the  
788 board.

789 (k) No wholesaler shall maintain or operate any place  
790 where sales are made other than that for which the wholesale  
791 license is granted; provided, however, a wholesaler may be  
792 licensed to sell and distribute liquor, wine, ~~and~~ beer, and  
793 mixed spirit beverages. No wholesaler shall maintain any place  
794 for the storage of liquor, wine, ~~or~~ beer, or mixed spirit  
795 beverages unless the same has been approved by the board. No  
796 wholesaler license shall be issued for any premises in any  
797 part of which there is operated any retail license for the  
798 sale of alcoholic beverages.

799 (l) Licenses issued under this ~~code~~ chapter may not be  
800 assigned. The board may transfer any license from one person  
801 to another, or from one place to another within the same  
802 governing jurisdiction, or both, as the board may determine;  
803 but no transfers shall be made to a person who would not have  
804 been eligible to receive the license originally, nor for the  
805 transaction of business at a place for which the license could  
806 not originally have been issued lawfully.

807 (m) Every applicant for a transfer of a license shall  
808 file a written application with the board within such time as  
809 the board shall fix in its rules. Whenever any license is  
810 transferred, there shall be collected a filing fee of fifty  
811 dollars (\$50), to be paid to the board, and the board shall  
812 pay the fee into the State Treasury to the credit of the Beer



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813 Tax and License Fund of the board.

814 (n) In the event that any person to whom a license has  
815 been issued under the terms of this ~~code~~chapter becomes  
816 insolvent, makes an assignment for the benefit of creditors,  
817 or is adjudicated as bankrupt by either voluntary or  
818 involuntary action, the license of the person shall  
819 immediately terminate and be cancelled without any action on  
820 the part of the board, and there shall be no refund made, or  
821 credit given, for the unused portion of the license fee for  
822 the remainder of the license year for which the license was  
823 granted. Thereafter, no license shall be issued by the board  
824 for the premises, wherein the license was conducted, to any  
825 assignee, committee, trustee, receiver, or successor of the  
826 licensee until a hearing has been held by the board as in the  
827 case of a new application for license. In all such cases, the  
828 board shall have the sole and final discretion as to the  
829 propriety of the issuance of a license for the premises,  
830 including the time it shall issue, and the period for which it  
831 shall be issued, and shall have the further power to impose  
832 conditions under which the licensed premises shall be  
833 conducted."

834 Section 7. Mixed spirit beverages, as defined in  
835 Section 28-3-1, Code of Alabama 1975, shall be marketed in a  
836 responsible and appropriate manner. The Alcoholic Beverage  
837 Control Board may exercise its discretion to deny labels it  
838 considers objectionable. All labels must conform to rules of  
839 the board regarding advertising, product placement, and  
840 package warning signage. The board, on a case by case basis,



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841 may require certain products that, as labeled, pose a risk of  
842 misleading or deceiving the public to believe that the  
843 products are non-alcoholic products, to be sold only at liquor  
844 stores, as defined in Section 28-3-1, Code of Alabama 1975, or  
845 establishments that maintain a lounge retail liquor - Class I  
846 or Class II license.

847 Section 8. Chapter 8B, commencing with Section 28-8B-1,  
848 is added to Title 28 of the Code of Alabama 1975, to read as  
849 follows:

850 Chapter 8B

851 §28-8B-1

852 (a) The Legislature hereby finds and declares that this  
853 chapter is enacted pursuant to the authority granted to the  
854 state under the Twenty-First Amendment to the United States  
855 Constitution, the powers reserved to the state under the Tenth  
856 Amendment to the United States Constitution, and the inherent  
857 powers of the state under the Constitution of Alabama of 2022,  
858 in order to regulate the traffic of alcoholic beverages and to  
859 substitute the regulations and oversight established in this  
860 chapter for the application of federal and state antitrust  
861 laws that otherwise would apply to any potential  
862 anti-competitive effects of this title. For the avoidance of  
863 doubt, the intent of the Legislature is to maintain the  
864 uniform three-tier system of control over the sale, purchase,  
865 taxation, transportation, manufacture, consumption, and  
866 possession of alcoholic beverages in the state to promote the  
867 health, safety, and welfare of residents of this state by,  
868 among other purposes, ensuring the state shall be able to





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869 register, audit, inspect, seize, recall, and test alcoholic  
870 beverages shipped into, distributed, and sold throughout this  
871 state; and this expression of the policy and intent of the  
872 Legislature is intended to satisfy the clear articulation test  
873 for state action immunity as has been established by the  
874 United States Supreme Court in *California Retail Liquor*  
875 *Dealers Assn. v. Midcal Aluminum, Inc., et al.*

876 (b) If any provision of this chapter, or its  
877 application to any person or circumstance, is determined by a  
878 court to be invalid or unconstitutional, that provision shall  
879 be stricken and the remaining provisions shall be construed in  
880 accordance with the intent of the Legislature to further limit  
881 rather than expand commerce in alcoholic beverages, including  
882 by prohibiting any commerce in alcoholic beverages not  
883 expressly authorized, and to enhance strict regulatory control  
884 over taxation, distribution, and sale of alcoholic beverages  
885 through the existing uniform system of regulation of alcoholic  
886 beverages.

887 §28-8B-2

888 As used in this chapter, the following terms have the  
889 following meanings:

890 (1) AGREEMENT. Any agreement between a wholesaler and a  
891 supplier, whether oral or written, whereby a wholesaler is  
892 granted the right to purchase and sell a brand or brands of  
893 mixed spirit beverages sold by a supplier.

894 (2) ANCILLARY BUSINESS. A business owned by a  
895 wholesaler, or by a substantial partner of a wholesaler, the  
896 primary business of which is directly related to the



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897 transporting, storing, or marketing of the brand or brands of  
898 mixed spirit beverages of a supplier with whom the wholesaler  
899 has an agreement; or a business owned by a wholesaler, a  
900 substantial stockholder of a wholesaler, or a substantial  
901 partner of a wholesaler that recycles empty beverage  
902 containers.

903 (3) DESIGNATED MEMBER. The spouse, child, grandchild,  
904 parent, brother, or sister of a deceased individual who owned  
905 an interest, including a controlling interest, in a  
906 wholesaler; or any person who inherits the deceased  
907 individual's ownership interest in the wholesaler under the  
908 terms of the deceased individual's will, or under the laws of  
909 intestate succession of this state; or any person who or  
910 entity which has otherwise by designation in writing by the  
911 deceased individual, succeeded the deceased individual in the  
912 wholesaler's business, or has succeeded to the deceased  
913 individual's ownership interest in the wholesaler pursuant to  
914 a written contract or instrument; and also includes the  
915 appointed and qualified personal representative and the  
916 testamentary trustee of a deceased individual owning an  
917 ownership interest in a wholesaler. Designated member also  
918 includes a person appointed by the court as the guardian or  
919 conservator of the property of an incapacitated individual  
920 owning an ownership interest in a wholesaler.

921 (4) GOOD FAITH. Honesty in fact and the observance of  
922 reasonable commercial standards of fair dealing in the trade,  
923 as defined in and interpreted under the Uniform Commercial  
924 Code, Section 7-2-103, Code of Alabama 1975.



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925 (5) REASONABLE QUALIFICATIONS. The standard of the  
926 reasonable criteria established and consistently used by the  
927 respective supplier for Alabama wholesalers that entered into,  
928 continued, or renewed an agreement with the supplier during a  
929 period of 24 months prior to the proposed transfer of the  
930 wholesaler's business, or for Alabama wholesalers who have  
931 changed managers or designated managers during a period of 24  
932 months prior to the proposed change in manager or successor  
933 manager of the wholesaler's business.

934 (6) RETALIATORY ACTION. Includes, but is not limited  
935 to, the refusal to continue an agreement, or a material  
936 reduction in the quality of service or in the quantity of  
937 products available to a wholesaler under an agreement, which  
938 refusal or reduction is not made in good faith.

939 (7) SALES TERRITORY. An area of exclusive sales  
940 responsibility for the brand or brands of mixed spirit  
941 beverages sold by a supplier as designated by an agreement.

942 (8) SUBSTANTIAL STOCKHOLDER or SUBSTANTIAL PARTNER. A  
943 stockholder of or partner in the wholesaler who owns an  
944 interest of 25 percent or more of the partnership or of the  
945 capital stock of a corporate wholesaler.

946 (9) SUPPLIER. A manufacturer or importer of mixed  
947 spirit beverages licensed by the board.

948 (10) TRANSFER OF WHOLESALER'S BUSINESS. The voluntary  
949 sale, assignment, or other transfer of all or control of the  
950 business, or all or substantially all of the assets of the  
951 wholesaler, or all or control of the capital stock of the  
952 wholesaler, including without limitation the sale or other



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953 transfer of capital stock or assets by merger, consolidation,  
954 or dissolution, or of the capital stock of the parent  
955 corporation, or of the capital stock or beneficial ownership  
956 of any other entity owning or controlling the wholesaler.

957 (11) WHOLESALER. A wholesaler of mixed spirit beverages  
958 licensed by the board.

959 §28-8B-3

960 (a) This chapter does not apply to regulation of beer  
961 or wine franchises.

962 (b) Nothing in this chapter shall be deemed to repeal  
963 or amend any existing beer or wine franchise laws. This  
964 chapter is intended to provide franchise regulation for mixed  
965 spirit beverages, and to leave in effect and unchanged any  
966 local or state franchise laws existing on the effective date  
967 of this act.

968 (c) Notwithstanding this chapter, including Section  
969 28-8B-4, the board shall have the authority to purchase mixed  
970 spirit beverages directly from the manufacturer and sell these  
971 products to retail customers. This will maintain the  
972 anti-monopoly goals of the three-tier system. The board is  
973 exempt from the operation of this chapter or any other  
974 franchise law; provided, the board, as a wholesaler, shall  
975 only distribute mixed spirit beverages to liquor stores.

976 §28-8B-4

977 (a) Each supplier of mixed spirit beverages licensed by  
978 the board to sell its mixed spirit beverages within the State  
979 of Alabama shall sell its mixed spirit beverages only through  
980 wholesaler licensees of the board and shall grant in writing



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981 to each of its wholesalers an exclusive sales territory in  
982 accordance with Chapter 8.

983 (b) A licensed retailer may not purchase mixed spirit  
984 beverages from any entity other than the licensed wholesaler  
985 designated by the manufacturer of the mixed spirit beverages.

986 §28-8B-5

987 A supplier shall not do any of the following:

988 (1) Fail to provide each wholesaler of the supplier's  
989 brand or brands with a written agreement that contains in  
990 total the supplier's agreement with each wholesaler and  
991 designates a specific exclusive sales territory. No part of  
992 this chapter shall prevent a supplier from appointing, one  
993 time for a period not to exceed 90 days, a wholesaler to  
994 temporarily service a sales territory not designated to  
995 another wholesaler, until such time as a wholesaler is  
996 appointed by the supplier; and the wholesaler who is  
997 designated to service the sales territory during this period  
998 of temporary service shall not be in violation of this  
999 chapter, and, with respect to the temporary service territory,  
1000 shall not have any of the rights provided under Sections  
1001 28-8B-7 and 28-8B-9.

1002 (2) Fix, maintain, or establish the price at which a  
1003 wholesaler shall sell any mixed spirit beverages.

1004 (3) Enter into an additional agreement with any other  
1005 wholesaler for, or to sell to any other wholesaler, the same  
1006 brand or brands of mixed spirit beverages in the same  
1007 territory or any portion thereof, or to sell directly to any  
1008 retailer in this state.



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1009           (4) Coerce, or attempt to coerce, any wholesaler to  
1010 accept delivery of any mixed spirit beverages or other  
1011 commodity which has not been ordered by the wholesaler.  
1012 Provided, however, a supplier may impose reasonable inventory  
1013 requirements upon a wholesaler if the requirements are made in  
1014 good faith and are generally applied to other similarly  
1015 situated wholesalers having an agreement with the supplier.

1016           (5) Coerce, or attempt to coerce, any wholesaler to  
1017 accept delivery of any mixed spirit beverages or other  
1018 commodity ordered by a wholesaler if the order was cancelled  
1019 by the wholesaler.

1020           (6) Coerce, or attempt to coerce, any wholesaler to do  
1021 any illegal act or to violate any law or any regulation by  
1022 threatening to amend, modify, cancel, terminate, or refuse to  
1023 review any agreement existing between the supplier and  
1024 wholesaler.

1025           (7) Require a wholesaler to assent to any condition,  
1026 stipulation, or provision limiting the wholesaler's right to  
1027 sell the brand or brands of mixed spirit beverages or other  
1028 products of any other supplier unless the acquisition of the  
1029 brand or brands or products of another supplier would  
1030 materially impair or adversely affect the wholesaler's quality  
1031 of service, sales, or ability to compete effectively in  
1032 representing the brand or brands of the supplier presently  
1033 being sold by the wholesaler. The supplier shall have the  
1034 burden of proving that such acquisition of such other brand or  
1035 brands or products would have such effect.

1036           (8) Require a wholesaler to purchase one or more brands



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1037 of mixed spirit beverages or other products in order for the  
1038 wholesaler to purchase another brand or brands of mixed spirit  
1039 beverages for any reason.

1040 (9) Request a wholesaler to submit audited profit and  
1041 loss statements, balance sheets, or financial records as a  
1042 condition of renewal or continuation of an agreement.

1043 (10) Withhold delivery of mixed spirit beverages  
1044 ordered by a wholesaler or change a wholesaler's quota of a  
1045 brand or brands if the withholding or change is not made in  
1046 good faith.

1047 (11) Require a wholesaler by any means directly to  
1048 participate in or contribute to any local or national  
1049 advertising fund controlled directly or indirectly by a  
1050 supplier.

1051 (12) Take any retaliatory action against a wholesaler  
1052 that files a complaint regarding an alleged violation by the  
1053 supplier of federal, state, or local law or an administrative  
1054 rule.

1055 (13) Require or prohibit, without just and reasonable  
1056 cause, any change in the manager or successor manager of any  
1057 wholesaler who has been approved by the supplier. Should a  
1058 wholesaler change an approved manager or successor manager, a  
1059 supplier shall not require or prohibit the change unless the  
1060 person selected by the wholesaler fails to meet the  
1061 nondiscriminatory, material, and reasonable standards and  
1062 qualifications for managers of Alabama wholesalers of the  
1063 supplier which previously have been consistently applied to  
1064 Alabama wholesalers by the supplier. The supplier shall have



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1065 the burden of proving that a person fails to meet the  
1066 standards and qualifications which are nondiscriminatory,  
1067 material, and reasonable and have been consistently applied to  
1068 Alabama wholesalers.

1069 (14) Upon written notice of intent to transfer the  
1070 wholesaler's business, interfere with, prevent, or  
1071 unreasonably delay, for longer than 30 days after the receipt  
1072 of the notice, the transfer of the wholesaler's business if  
1073 the proposed transferee is a designated member.

1074 (15) Upon written notice of intent to transfer the  
1075 wholesaler's business to a person other than a designated  
1076 member, withhold consent to or approval of or unreasonably  
1077 delay, for longer than 30 days after receipt of the notice,  
1078 the transfer of a wholesaler's business if the proposed  
1079 transferee meets the nondiscriminatory, material, and  
1080 reasonable qualifications and standards required by the  
1081 supplier for Alabama wholesalers. The supplier shall have the  
1082 burden of proving that the proposed transferee does not meet  
1083 such standards and qualifications which are nondiscriminatory,  
1084 material, and reasonable and have been consistently applied to  
1085 Alabama wholesalers.

1086 (16) Restrict or inhibit, directly or indirectly, the  
1087 right of free association among wholesalers for any lawful  
1088 purpose.

1089 §28-8B-6

1090 A wholesaler shall not do any of the following:

1091 (1) Fail to devote reasonable efforts and resources,  
1092 within its supplier-designated sales territory, to the sale





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1093 and distribution of all of the supplier's brands of mixed  
1094 spirit beverages which the wholesaler has been granted the  
1095 right to sell or distribute.

1096 (2)a. Except as provided in paragraph b., sell or  
1097 deliver mixed spirit beverages to a retail licensee located  
1098 outside the sales territory designated to the wholesaler by  
1099 the supplier of a particular brand or brands of mixed spirit  
1100 beverages.

1101 b. Notwithstanding paragraph a., during periods of  
1102 temporary service interruptions impacting a particular sales  
1103 territory, a wholesaler who normally services the impacted  
1104 sales territory shall file with the board and give to the  
1105 affected supplier written notice designating the specific  
1106 licensed wholesaler or wholesalers, not disapproved by the  
1107 supplier, who will service the sales territory during the  
1108 period of temporary service interruption and the approximate  
1109 length of time for the service interruption. Each wholesaler  
1110 designated to temporarily service the sales territory shall be  
1111 a wholesaler who has a current written agreement with the  
1112 supplier for the brand or brands affected. When the temporary  
1113 service interruption is over, the wholesaler who normally  
1114 services the sales territory shall notify in writing the  
1115 board, the supplier, and the wholesaler, or wholesalers,  
1116 servicing the sales territory on a temporary basis of this  
1117 fact, and any wholesaler servicing the sales territory on a  
1118 temporary basis shall cease servicing the sales territory upon  
1119 receipt of notice. A wholesaler who is designated to service  
1120 the impacted sales territory during the period of temporary



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1121 service shall not be in violation of this chapter, and, with  
1122 respect to the temporary service territory, shall not have any  
1123 of the rights provided under Sections 28-8B-7 and 28-8B-9.

1124 (3)a. Transfer the wholesaler's business without giving  
1125 the supplier written notice of intent to transfer the  
1126 wholesaler's business, and, where required by this section,  
1127 without receiving the supplier's approval for the proposed  
1128 transfer.

1129 b. The consent or approval of the supplier shall not be  
1130 required of any transfer of the wholesaler's business to a  
1131 designated member, or any transfer of less than control of the  
1132 wholesaler's business. Provided, however, that the wholesaler  
1133 shall give the supplier written notice of any change in  
1134 ownership of the wholesaler.

1135 §28-8B-7

1136 (a) Notwithstanding any agreement and except as  
1137 otherwise provided for in this chapter, a supplier shall not  
1138 amend or modify an agreement; cause a wholesaler to resign  
1139 from an agreement; or cancel, terminate, fail to renew, or  
1140 refuse to continue under an agreement, unless, in any of the  
1141 foregoing cases, the supplier has complied with all of the  
1142 following:

1143 (1) Has satisfied the applicable notice requirements of  
1144 subsection (c).

1145 (2) Has acted in good faith.

1146 (3) Has good cause for the amendment, modification,  
1147 cancellation, termination, nonrenewal, discontinuance, or  
1148 forced resignation.



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1149 (b) For each amendment, modification, termination,  
1150 cancellation, nonrenewal, or discontinuance, the supplier  
1151 shall have the burden of proving that it has acted in good  
1152 faith, that the notice requirements under this section have  
1153 been complied with, and that there was good cause for the  
1154 amendment, modification, termination, cancellation,  
1155 nonrenewal, or discontinuance.

1156 (c) Notwithstanding any agreement and except as  
1157 otherwise provided in this section, and in addition to the  
1158 time limits set forth in subdivision (d) (5), the supplier  
1159 shall furnish written notice of the amendment, modification,  
1160 termination, cancellation, nonrenewal, or discontinuance of an  
1161 agreement to the wholesaler not less than 60 days before the  
1162 effective date of the amendment, modification, termination,  
1163 cancellation, nonrenewal, or discontinuance. The notice shall  
1164 be by certified mail and shall contain all of the following:

1165 (1) A statement of intention to amend, modify,  
1166 terminate, cancel, not renew, or discontinue the agreement.

1167 (2) A statement of the reason for the amendment,  
1168 modification, termination, cancellation, nonrenewal, or  
1169 discontinuance.

1170 (3) The date on which the amendment, modification,  
1171 termination, cancellation, nonrenewal, or discontinuance takes  
1172 effect.

1173 (d) Notwithstanding any agreement, good cause shall  
1174 exist for the purposes of a termination, cancellation,  
1175 nonrenewal, or discontinuance under subdivision (a) (3) when  
1176 all of the following occur:



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1177 (1) There is a failure by the wholesaler to comply with  
1178 a provision of the agreement which is both reasonable and of  
1179 material significance to the business relationship between the  
1180 wholesaler and the supplier.

1181 (2) The supplier first acquired knowledge of the  
1182 failure described in subdivision (1) of this subsection not  
1183 more than 18 months before the date notification was given  
1184 pursuant to subdivision (a)(1).

1185 (3) The wholesaler was given notice by the supplier of  
1186 failure to comply with the agreement.

1187 (4) The wholesaler was afforded a reasonable  
1188 opportunity to assert good faith efforts to comply with the  
1189 agreement within the time limits as provided for in  
1190 subdivision (5).

1191 (5) The wholesaler has been afforded 30 days in which  
1192 to submit a plan of corrective action to comply with the  
1193 agreement and an additional 120 days to cure the noncompliance  
1194 in accordance with the plan.

1195 (e) Notwithstanding subsections (a) and (c), a supplier  
1196 may terminate, cancel, fail to renew, or discontinue an  
1197 agreement immediately upon written notice given in the manner  
1198 and containing information required by subsection (c) if any  
1199 of the following occur:

1200 (1) Insolvency of the wholesaler, the filing of any  
1201 petition by or against the wholesaler under any bankruptcy or  
1202 receivership law, or the assignment for the benefit of  
1203 creditors or dissolution or liquidation of the wholesaler  
1204 which materially affects the wholesaler's ability to remain in



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1205 business.

1206 (2) Revocation or suspension of the wholesaler's state  
1207 or federal license by the appropriate regulatory agency  
1208 whereby the wholesaler cannot service the wholesaler's sales  
1209 territory for more than 61 days.

1210 (3)a. The wholesaler, or partner or individual who owns  
1211 10 percent or more of the partnership or stock of a corporate  
1212 wholesaler, has been convicted of a felony under federal or  
1213 any state law which reasonably may adversely affect the good  
1214 will or the interest of the wholesaler or supplier.

1215 b. Notwithstanding paragraph a., an existing  
1216 stockholder or stockholders, or partner or partners, or a  
1217 designated member or members subject to this chapter shall  
1218 have the right to purchase the partnership interest or the  
1219 stock of the offending partner or stockholder prior to the  
1220 conviction of the offending partner or stockholder. This  
1221 subdivision shall not apply if the sale is completed prior to  
1222 conviction.

1223 (f) Notwithstanding subsections (a), (c), and (e), upon  
1224 not less than 15 days' prior written notice given in the  
1225 manner and containing the information required by subsection  
1226 (c), a supplier may terminate, cancel, fail to renew, or  
1227 discontinue an agreement if any of the following events occur:

1228 (1) There was intentional fraudulent conduct relating  
1229 to a material matter on the part of the wholesaler in dealings  
1230 with the supplier; provides, however, the supplier shall have  
1231 the burden of proving intentional fraudulent conduct relating  
1232 to a material matter on the part of the wholesaler.



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1233           (2) The wholesaler failed to confine to the designated  
1234 sales territory its sales of a brand or brands to retailers,  
1235 provided this subdivision does not apply if there is a dispute  
1236 between two or more wholesalers as to the boundaries of the  
1237 assigned territory and the boundary cannot be determined by a  
1238 reading of the description contained in the agreements between  
1239 the suppliers and the wholesalers.

1240           (3) A wholesaler who has failed to pay for mixed spirit  
1241 beverages ordered and delivered in accordance with established  
1242 terms with the supplier fails to make full payment within two  
1243 business days after receipt of written notice of the  
1244 delinquency and demand for immediate payment from the  
1245 supplier.

1246           (4) A wholesaler intentionally has made a transfer of  
1247 wholesaler's business, other than a transfer to a designated  
1248 member or pursuant to a loan agreement or debt instrument,  
1249 without prior written notice to the supplier, and has failed,  
1250 within 30 days from the receipt of written notice from the  
1251 supplier of its intent to terminate on the ground of such  
1252 transfer, to reverse the transfer of wholesaler's business.

1253           (5) A wholesaler intentionally has made a transfer of  
1254 wholesaler's business other than a transfer to a designated  
1255 member, although the wholesaler, prior to the transfer, has  
1256 received from the supplier a timely notice of disapproval of  
1257 the transfer in accordance with this section.

1258           (6) The wholesaler intentionally ceases, or ceases for  
1259 more than a period of 61 days, to carry on business with  
1260 respect to any of the supplier's brand or brands previously



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1261 serviced by the wholesaler in its territory designated by the  
1262 supplier, unless the cessation is due to force majeure or to a  
1263 labor dispute and the wholesaler has made good faith efforts  
1264 to overcome such events. This subdivision shall affect only  
1265 that brand or brands with respect to which the wholesaler  
1266 ceased to carry on business.

1267 (g) Notwithstanding subsections (a), (c), (e), and (f),  
1268 a supplier may terminate, cancel, not renew, or discontinue an  
1269 agreement upon not less than 30 days' prior written notice if  
1270 the supplier discontinues production or discontinues  
1271 distribution in this state of all brands sold by the supplier  
1272 to the wholesaler. Provided, however, nothing in this section  
1273 shall prohibit a supplier from doing either of the following:

1274 (1) Upon not less than 30 days' notice, discontinuing  
1275 the distribution of any particular brand of mixed spirit  
1276 beverages.

1277 (2) Conducting test marketing of a new brand of mixed  
1278 spirit beverages or of a brand of mixed spirit beverages which  
1279 is not currently being sold in this state, if the supplier has  
1280 notified the board in writing of its plan to test market. The  
1281 notice shall describe the market area in which the test shall  
1282 be conducted, the name or names of the wholesaler or  
1283 wholesalers who will be selling the mixed spirit beverages,  
1284 the name or names of the brand of mixed spirit beverages being  
1285 tested, and the period of time not to exceed 18 months during  
1286 which the testing will take place.

1287 §28-8B-8

1288 (a) Upon written notice of intent to transfer the



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1289 wholesaler's business, any individual owning, or deceased  
1290 individual who owned, an interest in a wholesaler may transfer  
1291 the wholesaler's business to a designated member, or any other  
1292 person who meets the nondiscriminatory, material, and  
1293 reasonable qualifications and standards required by the  
1294 supplier for Alabama wholesalers. The consent or approval of  
1295 the supplier shall not be required of any transfer of the  
1296 wholesaler's business, including the assignment of  
1297 wholesaler's rights under the agreement, to a designated  
1298 member or shall not be withheld or unreasonably delayed to a  
1299 proposed transferee, other than a designated member, who meets  
1300 the nondiscriminatory, material, and reasonable qualifications  
1301 and standards. Provided, however, the supplier shall have the  
1302 burden of proving that the proposed transferee fails to meet  
1303 the qualifications and standards which are nondiscriminatory,  
1304 material, and reasonable and consistently applied to Alabama  
1305 wholesalers by the supplier. Provided, the designated member  
1306 or transferee shall in no event be qualified as a transferee  
1307 without the prior written approval or consent of the supplier,  
1308 where the proposed transferee shall have been involved in any  
1309 of the following:

1310 (1) Insolvency filing of any voluntary or involuntary  
1311 petition under any bankruptcy or receivership law, or  
1312 execution of an assignment for the benefit of creditors.

1313 (2) Revocation or suspension of an alcoholic beverage  
1314 license by the regulatory agency of the U.S. government or any  
1315 state, whereby service was interrupted for more than 61 days.

1316 (3) Conviction of a felony under federal law, or the





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1317 laws of any state which reasonably may adversely affect the  
1318 good will or interest of the wholesaler or supplier.

1319 (4) The involuntary termination, cancellation,  
1320 nonrenewal, or discontinuance by a supplier of an agreement  
1321 for good cause.

1322 (b) The supplier shall not interfere with, prevent, or  
1323 unreasonably delay the transfer of the wholesaler's business,  
1324 including an assignment of the wholesaler's rights under the  
1325 agreement, if the proposed transferee is a designated member,  
1326 or if the transferee other than a designated member meets the  
1327 nondiscriminatory, material, and reasonable qualifications  
1328 required by the supplier for Alabama wholesalers. Where the  
1329 transferee is other than a designated member, the supplier, in  
1330 good faith and for good cause related to the reasonable  
1331 qualifications, may refuse to accept the transfer of the  
1332 wholesaler's business or the assignment of the wholesaler's  
1333 rights under the agreement. The supplier shall have the burden  
1334 of proving that it has acted in good faith and that there was  
1335 good cause for failure to accept or consent to the transfer of  
1336 the wholesaler's business or the assignment of the  
1337 wholesaler's rights under the agreement.

1338 §28-8B-9

1339 (a) Except as otherwise provided for in this chapter, a  
1340 supplier that has amended, modified, cancelled, terminated, or  
1341 refused to renew any agreement; or has caused a wholesaler to  
1342 resign from any agreement; or has interfered with, prevented,  
1343 or unreasonably delayed, or where required by this chapter,  
1344 has withheld or unreasonably delayed consent to or approval



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1345 of, any assignment or transfer of a wholesaler's business,  
1346 shall pay the wholesaler reasonable compensation for the  
1347 diminished value of the wholesaler's business, including any  
1348 ancillary business which has been negatively affected by the  
1349 act of the supplier. The value of the wholesaler's business or  
1350 ancillary business shall include, but not be limited to, any  
1351 good will. Provided, however, nothing contained in this  
1352 chapter shall give rise to a claim against the supplier or  
1353 wholesaler by any proposed purchaser of the wholesaler's  
1354 business.

1355 (b) Should either party, at any time, determine that  
1356 mutual agreement on the amount of reasonable compensation  
1357 cannot be reached, the supplier or the wholesaler may send by  
1358 certified mail, return receipt requested, written notice to  
1359 the other party declaring its intention to proceed with  
1360 arbitration. Arbitration shall proceed only by mutual  
1361 agreement by both parties.

1362 (c) Not more than 10 business days after the notice to  
1363 enter into arbitration has been delivered, the other party  
1364 shall send written notice to the requesting party declaring  
1365 its intention either to proceed or not to proceed with  
1366 arbitration. Should the other party fail to respond within the  
1367 10 business days, it shall be conclusively presumed that the  
1368 party shall have agreed to arbitration.

1369 (d) The matter of determining the amount of  
1370 compensation, by agreement of the parties, may be submitted to  
1371 a three-member arbitration panel consisting of one  
1372 representative selected by the supplier but unassociated with



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1373 the affected supplier; one wholesaler representative selected  
1374 by the wholesaler but unassociated with the wholesaler; and an  
1375 impartial arbitrator chosen as provided in this section.

1376 (e) Not more than 10 business days after mutual  
1377 agreement of both parties has been reached to arbitrate, each  
1378 party shall designate, in writing, its one arbitrator  
1379 representative and the party initiating arbitration shall  
1380 request, in writing, a list of five arbitrators from the  
1381 American Arbitration Association or its successor and request  
1382 that the list shall be mailed to each party by certified mail,  
1383 return receipt requested. Not more than 10 business days after  
1384 the receipt of the list of five choices, the wholesaler  
1385 arbitrator and the supplier arbitrator shall strike and  
1386 disqualify up to two names each from the list. Should either  
1387 party fail to respond within 10 business days or should more  
1388 than one name remain after the strikes, the American  
1389 Arbitration Association shall make the selection of the  
1390 impartial arbitrator from the names not stricken from the  
1391 list.

1392 (f) Not more than 30 days after the final selection of  
1393 the arbitration panel is made, the arbitration panel shall  
1394 convene to decide the dispute. The panel shall conclude the  
1395 arbitration within 20 days after the arbitration panel  
1396 convenes and shall render a decision by majority vote of the  
1397 arbitrators within 20 days from the conclusion of the  
1398 arbitration. The award of the arbitration panel shall be final  
1399 and binding on the parties as to the amount of compensation  
1400 for the diminished value.



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1401 (g) The cost of the impartial arbitrator, the  
1402 stenographer, and the meeting site shall be equally divided  
1403 between the wholesaler and the supplier. All other costs shall  
1404 be paid by the party incurring them.

1405 (h) After both parties have agreed to arbitrate, should  
1406 either party, except by mutual agreement, fail to abide by the  
1407 time limitations as prescribed in subsections (c), (e), and  
1408 (f), or fail or refuse to make the selection of any  
1409 arbitrators, or fail to participate in the arbitration  
1410 hearings, the other party shall make the selection of its  
1411 arbitrator and proceed to arbitration. The party who has  
1412 failed or refused to comply as prescribed in this section  
1413 shall be considered to be in default. Any party considered to  
1414 be in default pursuant to this subsection shall have waived  
1415 any and all rights the party would have had in the arbitration  
1416 and shall be considered to have consented to the determination  
1417 of the arbitration panel.

1418 §28-8B-10

1419 (a) A wholesaler may not waive any of the rights  
1420 granted in this chapter, and the provisions of any agreement  
1421 which would have such an effect shall be void. Nothing in this  
1422 chapter shall be construed to limit or prohibit good faith  
1423 dispute settlements voluntarily entered into by the parties.

1424 (b) A transferee of a wholesaler that continues in  
1425 business as a wholesaler shall have the benefit of and be  
1426 bound by all terms and conditions of the agreement with the  
1427 supplier in effect on the date of the transfer; provided,  
1428 however, a transfer of a wholesaler's business which requires



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1429 a supplier's consent or approval but is disapproved by the  
1430 supplier shall be void.

1431 (c) A successor to a supplier that continues in  
1432 business as a supplier shall be bound by all terms and  
1433 conditions of each agreement of the supplier in effect on the  
1434 date of succession.

1435 §28-8B-11

1436 (a) (1) If a supplier engages in conduct prohibited  
1437 under this chapter, a wholesaler with which the supplier has  
1438 an agreement may maintain a civil action against the supplier  
1439 to recover actual damages reasonably incurred as the result of  
1440 the prohibited conduct.

1441 (2) If a wholesaler engages in conduct prohibited under  
1442 this chapter, a supplier with which the wholesaler has an  
1443 agreement may maintain a civil action against the wholesaler  
1444 to recover actual damages reasonably incurred as the result of  
1445 the prohibited conduct.

1446 (b) (1) A supplier that violates any provision of this  
1447 chapter shall be liable for all actual damages and all court  
1448 costs and, in the court's discretion, reasonable attorney fees  
1449 incurred by a wholesaler as a result of that violation.

1450 (2) A wholesaler that violates any provision of this  
1451 chapter shall be liable for all actual damages and all court  
1452 costs and, in the court's discretion, reasonable attorney fees  
1453 incurred by the supplier as a result of that violation.

1454 (c) (1) This chapter imposes upon a supplier the duty to  
1455 deal fairly and in good faith with a wholesaler that has  
1456 entered into an agreement with the supplier to purchase and



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1457 sell a brand or brands of mixed spirit beverages sold by the  
1458 supplier. Except as otherwise provided in this chapter, a  
1459 court may award exemplary or punitive damages, as well as  
1460 actual damages, court costs, and reasonable attorney fees to a  
1461 wholesaler who has been damaged by the action or the failure  
1462 to act of a supplier if the court, upon proof thereof by clear  
1463 and convincing evidence as defined in Section 6-11-20, finds  
1464 that a supplier has intentionally, consciously, or  
1465 deliberately acted in bad faith or failed to act in good faith  
1466 in any of the following:

1467         a. Effecting an amendment, modification, termination,  
1468 cancellation, or nonrenewal of any agreement.

1469         b. Unreasonably interfering with, preventing, or  
1470 unreasonably delaying the transfer of the wholesaler's  
1471 business where approval of the proposed transferee is not  
1472 required by this chapter.

1473         c. Unreasonably withholding its consent to or approval  
1474 of any assignment, transfer, or sale of a wholesaler's  
1475 business, where approval of the proposed transferee is  
1476 required by this chapter.

1477         (2) The actions or failure to act on the part of the  
1478 supplier, as listed in subdivision (1), shall constitute bad  
1479 faith.

1480         (d) A supplier or wholesaler may bring an action for  
1481 declaratory judgment for determination of any controversy  
1482 arising pursuant to this chapter.

1483         (e) Upon proper application to the court, a supplier or  
1484 wholesaler may obtain injunctive relief against any violation



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1485 of this chapter. If the court grants injunctive relief or  
1486 issues a temporary restraining order, bond shall not be  
1487 required to be posted.

1488 (f) The remedies provided by this section are  
1489 nonexclusive.

1490 (g) Any legal action taken under this chapter, or in a  
1491 dispute arising out of an agreement or breach thereof, or over  
1492 the provisions of an agreement shall be filed in any state  
1493 court located in a county in which the supplier and wholesaler  
1494 have a territorial agreement in Alabama.

1495 Section 9. If any provision of this act, or its  
1496 application to any person or circumstance, is determined by a  
1497 court to be invalid or unconstitutional, that provision shall  
1498 be stricken and the remaining provisions shall be construed in  
1499 accordance with the intent of the Legislature to further limit  
1500 rather than expand commerce in alcoholic beverages, including  
1501 by prohibiting any commerce in alcoholic beverages not  
1502 expressly authorized, and to enhance strict regulatory control  
1503 over taxation, distribution, and sale of alcoholic beverages  
1504 through the existing uniform system of regulation of alcoholic  
1505 beverages.

1506 Section 10. This act shall become effective April 1,  
1507 2024, following its passage and approval by the Governor, or  
1508 its otherwise becoming law.