

## HB521 INTRODUCED



1 HB521  
2 CXPMUQJ-1  
3 By Representatives Lipscomb, Moore (P), Underwood, Kirkland,  
4 Robertson, Oliver, Shaw, Holk-Jones, Starnes, Easterbrook,  
5 England, Daniels, McCampbell, Gray, Lawrence  
6 RFD: Economic Development and Tourism  
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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 made from liquor. These beverages are regulated like liquor. They are not available for distribution through beer and table wine wholesalers and are only sold in ABC stores.

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

This bill would institute a licensing structure in Alabama for mixed spirit beverages, which would require all mixed spirit beverages, other than those sold in Alabama Beverage Control Board stores, to be distributed through licensed wholesalers to licensed retailers for on-premise and off-premise consumption.

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

This bill would require suppliers of mixed spirit beverages to designate exclusive sales territories for each brand and enter into a distribution agreement with a licensed wholesaler for each sales territory.



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29                   This bill would also set requirements for  
30                   distribution agreements between suppliers and wholesale  
31                   distributors of mixed spirit beverages for no-cause  
32                   termination or nonrenewal of a distribution agreement.

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A BILL

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TO BE ENTITLED

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AN ACT

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41                   Relating to alcoholic beverages; to amend Sections  
42                   28-3-1, 28-3A-3, 28-3A-21, and 28-3A-23, Code of Alabama 1975;  
43                   to define a new category of low-alcohol content liquor  
44                   beverages called mixed spirit beverages; to add Section  
45                   28-3-208 to the Code of Alabama 1975, to levy an excise tax  
46                   upon the distribution of mixed spirit beverages; to add  
47                   Section 28-3A-9.1 to the Code of Alabama 1975, to provide a  
48                   license for wholesalers of mixed spirit beverages; to add  
49                   Section 28-3A-17.3, to provide licenses for retailers of mixed  
50                   spirit beverages; to set fees for the licenses; and to add  
51                   Chapter 8B to Title 28 of the Code of Alabama 1975; to require  
52                   licensed importers, manufacturers, and suppliers of mixed  
53                   spirit beverages to enter into exclusive sales territory  
54                   distribution agreements with wholesalers.

55

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

56

Section 1. Section 28-3-1, Code of Alabama 1975, is



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57 amended to read as follows:

58 "§28-3-1

59 As used in this title, the following words~~shall~~ have  
60 the following meanings unless the context clearly indicates  
61 otherwise:

62 (1) ALCOHOLIC BEVERAGES. Any alcoholic, spirituous,  
63 vinous, fermented, or other alcoholic beverage, or combination  
64 of liquors and mixed liquor, a part of which is spirituous,  
65 vinous, fermented, or otherwise alcoholic, and all drinks or  
66 drinkable liquids, preparations, or mixtures intended for  
67 beverage purposes, which contain one-half of one percent or  
68 more of alcohol by volume,~~and shall include~~. The term  
69 includes liquor, beer,~~and~~ wine, and mixed spirit beverages.

70 (2) ASSOCIATION. A partnership, limited partnership, or  
71 any form of unincorporated enterprise owned by two or more  
72 persons.

73 (3) BEER, or MALT OR BREWED BEVERAGES. Any beer, lager  
74 beer, ale, porter, malt or brewed beverage, or similar  
75 fermented beverage containing one-half of one percent or more  
76 of alcohol by volume and not in excess of~~thirteen and~~  
77 ~~nine-tenths~~13.9 percent alcohol by volume, brewed or produced  
78 from malt, wholly or in part, or from rice, grain of any kind,  
79 bran, glucose, sugar, or molasses. A beer or malt or brewed  
80 beverage may incorporate honey, fruit, fruit juice, fruit  
81 concentrate, herbs, spices, or other flavorings during the  
82 fermentation process. The term does not include any product  
83 defined as liquor, table wine, ~~or~~ wine, or mixed spirit  
84 beverages.



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

86 (5) BRANDY. All beverages that are an alcoholic  
87 distillate from the fermented juice, mash, or wine of fruit,  
88 or from the residue thereof, produced in such manner that the  
89 distillate possesses the taste, aroma, and characteristics  
90 generally attributed to the beverage, as bottled at not less  
91 than 80 degree proof.

92 (6) CARTON. The package or container or containers in  
93 which alcoholic beverages are originally packaged for shipment  
94 to market by the manufacturer or its designated  
95 representatives or the importer.

96 (7) CIDER. A fermented alcoholic beverage made from  
97 apple juice and containing not more than 8.5 percent alcohol  
98 by volume.

99 (8) CLUB.

100 a. Class I. A corporation or association organized or  
101 formed in good faith by authority of law and which must have  
102 at least 150 paid-up members. It must be the owner, lessee, or  
103 occupant of an establishment operated solely for the objects  
104 of a national, social, patriotic, political, or athletic  
105 nature or the like, but not for pecuniary gain, and the  
106 property as well as the advantages of which, belong to all the  
107 members and which maintains an establishment provided with  
108 special space and accommodations where, in consideration of  
109 payment, food with or without lodging is habitually served.  
110 The club shall hold regular meetings, continue its business  
111 through officers regularly elected, admit members by written  
112 application, investigation, and ballot, and charge and collect



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113 dues from elected members.

114           b. Class II. A corporation or association organized or  
115 formed in good faith by authority of law and which must have  
116 at least 100 paid-up members. It must be the owner, lessee, or  
117 occupant of an establishment operated solely for the objects  
118 of a national, social, patriotic, political, or athletic  
119 nature or the like. The club shall hold regular meetings,  
120 continue its business through officers regularly elected,  
121 admit members by written application, investigation, and  
122 ballot, and charge and collect dues from elected members.

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

128           (10) CORPORATION. A corporation or joint stock  
129 association organized under the laws of this state, the United  
130 States, or any other state, territory, or foreign country, or  
131 dependency.

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

135           (12) DELIVERY SERVICE LICENSE. A license issued by the  
136 Alabama Alcoholic Beverage Control Board in accordance with  
137 Section 28-3A-13.1 that authorizes the licensee, the  
138 licensee's employees, or independent contractors under a  
139 contractual or business arrangement with the licensee to  
140 transport and deliver alcoholic beverages.



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141 (13) DRY COUNTY. Any county which by a majority of  
142 those voting voted in the negative in an election ~~heretofore~~  
143 held under the applicable statutes at the time of the election  
144 or may hereafter vote in the negative in an election or  
145 special method referendum hereafter held in accordance with  
146 Chapter 2, or held in accordance with the provisions of any  
147 act hereafter enacted permitting such election.

148 (14) DRY MUNICIPALITY. Any municipality within a wet  
149 county which has, by its governing body or by a majority of  
150 those voting in a municipal election ~~heretofore~~ held in  
151 accordance with the provisions of Section 28-2-22, or in a  
152 municipal option election ~~heretofore or hereafter~~ held in  
153 accordance with the provisions of ~~Act 84-408, Acts of Alabama~~  
154 ~~1984, appearing as~~ Chapter 2A, or any act hereafter enacted  
155 permitting municipal option election, voted to exclude the  
156 sale of alcoholic beverages within the corporate limits of the  
157 municipality.

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

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

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

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

167 c. Service to and on behalf of dependent, neglected, or  
168 delinquent children.



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169 d. Investigative and referral services to and on behalf  
170 of needy persons.

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

175 (18) HOTEL. A building or buildings held out to the  
176 public for housing accommodations of travelers or transients,  
177 and shall include a motel, but shall not include a rooming  
178 house or boarding house.

179 (19) IMPORTER. Any person, association, or corporation  
180 engaged in importing alcoholic beverages, liquor, wine, ~~or~~  
181 beer, or mixed spirit beverages manufactured outside of the  
182 United States of America into this state or for sale or  
183 distribution in this state, or to the board or to a licensee  
184 of the board.

185 (20) INDEPENDENT CONTRACTOR. An individual to whom an  
186 employer is required to issue a 1099 tax form under federal  
187 law.

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

191 (22) LIQUOR. Any alcoholic, spirituous, vinous,  
192 fermented, or other alcoholic beverage, or combination of  
193 liquors and mixed liquor, a part of which is spirituous,  
194 fermented, vinous, or otherwise alcoholic, and all drinks or  
195 drinkable liquids, preparations, or mixtures intended for  
196 beverage purposes, which contain one-half of one percent or





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197 more of alcohol by volume, except beer, ~~and~~ table wine, and  
198 mixed spirit beverages.

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

202 (24) MANUFACTURER. Any person, association, or  
203 corporation engaged in the producing, bottling, manufacturing,  
204 distilling, fermenting, brewing, rectifying, or compounding of  
205 alcoholic beverages, liquor, beer, ~~or~~ wine, or mixed spirit  
206 beverages in this state or for sale or distribution in this  
207 state or to the board or to a licensee of the board.

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

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

215 (27) MINOR. Any person under 21 years of age; provided,  
216 however, in the event Section 28-1-5, ~~shall be is~~ repealed or  
217 otherwise ~~shall be~~ no longer in effect, ~~thereafter~~ the  
218 provisions of Section 26-1-1, shall govern.

219 (28) MIXED SPIRIT BEVERAGES. A single-serve beverage  
220 containing liquor, packaged in a can or other container  
221 approved by the board no larger than 16 ounces, and which  
222 contains no more than seven percent alcohol by volume. The  
223 term does not include any beverage containing liquor over 16  
224 ounces in size or of more than seven percent alcohol by



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225 volume.

226 (29) MUNICIPALITY. Any incorporated city or town of  
227 this state to include its police jurisdiction.

228 ~~(29)~~30 PERSON. Every natural person, association, or  
229 corporation. Whenever used in a clause prescribing or imposing  
230 a fine or imprisonment, or both, ~~such~~ the term as applied to  
231 an association shall mean the partners or members thereof and  
232 as applied to a corporation shall mean the officers thereof,  
233 except as to incorporated clubs the term ~~person shall mean~~  
234 ~~such~~ means an individual or individuals who, under the bylaws  
235 of such clubs, shall have jurisdiction over the possession and  
236 sale of liquor therein.

237 ~~(30)~~ (31) POPULATION. The population according to the  
238 last preceding or any subsequent decennial census of the  
239 United States, except where a municipality is incorporated  
240 subsequent to the last census, in which event, its population  
241 until the next decennial census shall be the population of the  
242 municipality as determined by the judge of probate of the  
243 county as the official population on the date of its  
244 incorporation.

245 ~~(31)~~ (32) RESTAURANT. A reputable place licensed as a  
246 restaurant, operated by a responsible person of good  
247 reputation, and habitually and principally used for the  
248 purpose of preparing and serving meals for the public to  
249 consume on the premises.

250 ~~(32)~~ (33) RETAILER. Any person licensed by the board to  
251 engage in the retail sale of any alcoholic beverages to the  
252 consumer.



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253           ~~(33)~~ (34) SALE or SELL. Any transfer of liquor, wine, ~~or~~  
254 beer, or mixed spirit beverages for a consideration, and any  
255 gift in connection with, or as a part of, a transfer of  
256 property other than liquor, wine, ~~or~~ beer, or mixed spirit  
257 beverages for a consideration.

258           ~~(34)~~ (35) SELLING PRICE. The total marked-up price of  
259 spirituous or vinous liquors sold by the board, exclusive of  
260 taxes levied thereon.

261           ~~(35)~~ (36) TABLE WINE. Except as otherwise provided in  
262 this subdivision, any wine containing not more than 24 percent  
263 alcohol by volume. Table wine does not include any wine  
264 containing more than ~~sixteen and one-half~~ 16.5 percent alcohol  
265 by volume that is made with herbs or flavors, except vermouth,  
266 or is an imitation or other than standard wine. Table wine is  
267 not liquor, spirituous, or vinous.

268           ~~(36)~~ (37) UNOPENED CONTAINER. A container containing  
269 alcoholic beverages, which has not been opened or unsealed  
270 subsequent to filling and sealing by the manufacturer or  
271 importer.

272           ~~(37)~~ (38) WET COUNTY. Any county which by a majority of  
273 those voting voted in the affirmative in an election  
274 ~~heretofore~~ held in accordance with the statutes applicable at  
275 the time of the election or may hereafter vote in the  
276 affirmative in an election or special method referendum held  
277 in accordance with Chapter 2, or other statutes applicable at  
278 the time of the election.

279           ~~(38)~~ (39) WET MUNICIPALITY. Any municipality in a dry  
280 county which by a majority of those voting voted in the



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281 affirmative in a municipal option election ~~heretofore or~~  
282 ~~hereafter~~ held in accordance with ~~the provisions of Act~~  
283 ~~84-408, Acts of Alabama 1984, appearing as~~ Chapter 2A of this  
284 title, ~~as amended,~~ or any act hereafter enacted permitting  
285 municipal option election, or any municipality which became  
286 wet by vote of the governing body or by the voters of the  
287 municipality ~~heretofore or hereafter~~ held under the special  
288 method referendum provisions of Section 28-2-22, or as  
289 hereafter provided, where the county has become dry subsequent  
290 to the elected wet status of the municipality.

291 ~~(39)~~ (40) WHOLESALER. Any person licensed by the board  
292 to engage in the sale and distribution of table wine, ~~and~~  
293 beer, or mixed spirit beverages, or ~~either any combination~~  
294 thereof ~~of them,~~ within this state, at wholesale only, to be  
295 sold by export or to retail licensees or other wholesale  
296 licensees or others within this state lawfully authorized to  
297 sell table wine, ~~and~~ beer, or mixed spirit beverages, or  
298 ~~either any combination thereof~~ of them, for the purpose of  
299 resale only.

300 ~~(40)~~ (41) WINE. All beverages made from the fermentation  
301 of fruits, berries, or grapes, with or without added spirits,  
302 and produced in accordance with the laws and regulations of  
303 the United States, containing not more than 24 percent alcohol  
304 by volume, and shall include all sparkling wines, carbonated  
305 wines, special natural wines, rectified wines, vermouths,  
306 vinous beverages, vinous liquors, and like products, including  
307 restored or unrestored pure condensed juice."

308 Section 2. Section 28-3-208 is added to the Code of



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309 Alabama 1975, to read as follows:

310 §28-3-208

311 (a) There is levied, in addition to the license taxes  
312 provided for by this chapter and municipal and county license  
313 taxes, a privilege or excise tax measured by and graduated in  
314 accordance with the volume of sales of mixed spirit beverages,  
315 which shall be an amount equal to two and nine-tenths cents  
316 (\$.029) per ounce or fractional part thereof.

317 (b) (1)a. The tax levied by subsection (a) shall be  
318 added to the sales price of all mixed spirit beverages and  
319 collected from the purchaser. The tax shall be collected in  
320 the first instance from the wholesaler where mixed spirit  
321 beverages are sold or handled by wholesale licensees.

322 b. It shall be unlawful for any person who is required  
323 to pay the tax in the first instance to fail or refuse to add  
324 to the sales price and collect from the purchaser the required  
325 amount of tax, it being the intent and purpose of this section  
326 that the tax levied is in fact a levy on the consumer. The  
327 person who pays the tax in the first instance is acting as an  
328 agent of the state for the collection and payment of the tax  
329 and as such may not collect a tax on mixed spirit beverages  
330 for any other level of government.

331 (2) The tax levied by subsection (a) shall be collected  
332 by a monthly return as follows:

333 a. The wholesaler shall file a monthly return with the  
334 board no later than the 15th day of the second month following  
335 the month of receipt of mixed spirit beverages by the  
336 wholesaler on a form prescribed by the board showing receipts



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337 by the wholesaler from manufacturers, importers, or other  
338 wholesaler licensees during the month of receipt and the tax  
339 due thereon at the rate of two and nine-tenths cents (\$.029)  
340 per ounce of mixed spirit beverages sold to the wholesaler.  
341 The tax due at this rate shall be remitted to the board along  
342 with the return.

343           b. A wholesaler shall file a monthly return with the  
344 county or municipality within which the mixed spirit beverage  
345 is sold at retail not later than the 15th day of each month,  
346 showing sales by wholesalers during the preceding month and  
347 the tax due thereon at the rate of two thousandths cents  
348 (\$.002) per ounce sold. The tax due at this rate shall be  
349 remitted to the county or municipality along with the return.

350           (3) The board and the governing body of each county and  
351 municipality served by the wholesaler shall have the authority  
352 to examine the books and records of the wholesaler who sells,  
353 stores, or receives for the purpose of distribution any mixed  
354 spirit beverages, to determine the accuracy of any return  
355 required to be filed with it.

356           (c) The proceeds of the tax levied by subsection (a)  
357 and remitted pursuant to subsection (b) shall be paid and  
358 distributed as follows:

359           (1) One-half of the mixed spirit beverages tax shall be  
360 deposited in the State General Fund.

361           (2) The remaining one-half of the mixed spirit  
362 beverages tax shall be retained by the board for regulatory,  
363 enforcement, and administrative purposes.

364           (3) The mixed spirit beverage tax remitted by the



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365 wholesaler to either the county or municipality under  
366 paragraph (b) (2)b. shall be distributed as provided in Section  
367 28-3-190.

368 (d) The tax levied under this section is exclusive and  
369 shall be in lieu of all other and additional taxes and  
370 licenses of the state, county, or municipality, imposed on or  
371 measured by the sale or volume of sale of mixed spirit  
372 beverages; provided, that nothing contained in this section  
373 shall be construed to exempt the retail sale of mixed spirit  
374 beverages from the levy of tax on general retail sales by the  
375 state, county, or municipality in the nature of, or in lieu  
376 of, a general sales tax.

377 (e) The tax levied by subsection (a) shall not be  
378 imposed upon the sale, trade, or barter of mixed spirit  
379 beverages by one licensed wholesaler to another wholesaler  
380 licensed to sell and handle mixed spirit beverages in this  
381 state, which transaction is made exempt from the tax;  
382 provided, however, the board may require written reporting of  
383 any such transaction in the form as the board may prescribe  
384 pursuant to paragraph (b) (2) a.

385 (f) Each county and municipality may fix a reasonable  
386 privilege or license fee on retail, importer, and wholesale  
387 licensees, for the purpose of covering the cost of  
388 administration with respect to the sale of mixed spirit  
389 beverages, but not to generate revenue; provided, however, a  
390 county or municipality may not levy a license or privilege tax  
391 or other charge for the privilege of doing business as a mixed  
392 spirit beverages wholesaler, importer, or retailer which shall



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393 exceed one-half the amount of the state license fee.

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

396 "§28-3A-3

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

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

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

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

408 ~~(4)~~ d. To distribute, wholesale, or act as jobber for  
409 the sale of table wine ~~and beer or either of them~~, beer, or  
410 mixed spirit beverages alone or in any combination to licensed  
411 retailers within the state and others within this state  
412 lawfully authorized to sell table wine, ~~or~~ beer, or mixed  
413 spirit beverages.

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

416 ~~(6)~~ f. To sell and dispense at retail, in a lounge,  
417 ~~liquor and other~~ alcoholic beverages for on-premises  
418 consumption.

419 ~~(7)~~ g. To sell and dispense at retail ~~in an~~  
420 ~~establishment habitually and principally used for the purpose~~





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421 ~~of providing meals for the public, liquor and other~~, in a  
422 restaurant, alcoholic beverages for on-premises consumption.

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

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

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

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

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

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

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

437 o. To sell mixed spirit beverages at retail for  
438 off-premises consumption.

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

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

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

448 (2) ~~Provided, however, that the~~ Notwithstanding



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449 subdivision (1), licenses authorized under subdivision (1) may  
450 not be issued in dry counties where traffic in alcoholic  
451 beverages is not authorized by law, ~~therein~~ except a wine  
452 manufacturer license may be issued in a dry county pursuant to  
453 Section 28-7-10.1. ~~Provided the~~The restriction of this  
454 ~~paragraph~~subdivision shall not apply to the ~~issuance of a~~  
455 renewal of a license under ~~subdivisions (1), (2), (3), (4),~~  
456 ~~and (5)~~paragraphs (1)a. through (1)e. where the county or  
457 municipality was wet when the initial license was issued and  
458 the county or municipality subsequently votes dry; however, no  
459 importer or wholesaler licensee may sell or distribute  
460 alcoholic beverages within a dry county, except in a wet  
461 municipality therein, or within a dry municipality.

462 (b) The board is granted discretionary powers in acting  
463 upon license applications under the provisions of this  
464 chapter.

465 (c) Licenses issued under this chapter, unless revoked  
466 or suspended in the manner provided in this chapter, shall be  
467 valid for the license year which shall begin on the first day  
468 of October of each year, unless otherwise established by this  
469 chapter or by the board. Licenses may be issued at any time  
470 during the year."

471 Section 4. Section 28-3A-9.1 and 28-3A-17.3 are added  
472 to the Code of Alabama 1975, to read as follows:

473 §28-3A-9.1

474 (a) Upon payment of the applicable fee for a mixed  
475 spirit beverages wholesaler license as established in Section  
476 28-3A-21, and the applicant's compliance with this chapter and



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477 rules adopted pursuant to this chapter, the board shall issue  
478 to a wholesaler a mixed spirit beverage wholesaler license.

479 (b) A mixed spirit beverage wholesaler license shall  
480 authorize the licensee to do all of the following:

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

483 (2) Purchase mixed spirit beverages from licensed  
484 manufacturers or other licensed wholesalers within the state.

485 (3) Sell at wholesale or distribute mixed spirit  
486 beverages to all licensees or other persons within this state  
487 lawfully authorized to sell mixed spirit beverages within the  
488 state.

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

490 (c) Sales to all authorized persons shall be in  
491 original packages or containers as approved by the board and  
492 prepared for the market by the manufacturer.

493 (d) (1) Except as provided in this section, no person  
494 shall sell at wholesale or distribute mixed spirit beverages  
495 within this state unless the person is issued by the board a  
496 wholesaler license to distribute mixed spirit beverages.

497 (2) Notwithstanding this section, Section 28-3A-17.3,  
498 or Chapter 8B, the board shall retain the authority to act as  
499 a wholesaler of mixed spirit beverages, provided the board, as  
500 a wholesaler, shall only distribute mixed spirit beverages to  
501 state liquor stores.

502 §28-3A-17.3

503 (a) Upon payment of the limited mixed spirit beverage  
504 expanded retail license fee as established in Section



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505 28-3A-21, the board shall issue a limited mixed spirit  
506 expanded retail license to any person who holds and possesses  
507 any of the following:

508 (1) A valid retail table wine license for on-premises  
509 and off-premises consumption as provided for in Section  
510 28-3A-14.

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

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

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

517 (b) Upon written request to the board and without  
518 payment of any additional fee in connection therewith, the  
519 board shall issue a limited mixed spirit beverage expanded  
520 retail license to any person who holds and possesses any of  
521 the following:

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

524 (2) A valid club liquor retail license as provided for  
525 in Section 28-3A-12.

526 (3) A valid restaurant retail liquor as provided for in  
527 Section 28-3A-13.

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

530 (c) Each liquor store operated by the board for retail  
531 sales only and not for sales to any person identified in  
532 subsection (a) or (b) shall be authorized to purchase mixed



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533 spirit beverages from a licensed mixed spirit beverages  
534 wholesaler and sell the mixed spirit beverages at retail  
535 commensurate with the privileges granted to the state liquor  
536 store to sell other alcoholic beverages.

537 (d) A license issued under this section shall authorize  
538 the licensee to purchase mixed spirit beverages from a  
539 licensed mixed spirit beverages wholesaler and sell the mixed  
540 spirit beverages at retail commensurate with the privileges  
541 granted to the licensee to sell beer and table wine.

542 (e) The board shall retain all limited mixed spirit  
543 expanded retail licensing fees collected. The board may use  
544 collected fees for regulatory and administrative purposes as  
545 determined by the board in its discretion, including for the  
546 purposes of replenishing the Cost of Evidence Fund established  
547 pursuant to Section 28-3-55 to assist in the regulatory  
548 functions of the board.

549 (f) Upon payment of a limited mixed spirit expanded  
550 retail license fee, there shall be no additional licensing or  
551 administrative requirements, including no requirement for  
552 additional background checks imposed by the city, county, or  
553 state for licensees for the sale of mixed spirit beverages.

554 Section 5. Sections 28-3A-21 and 28-3A-23, Code of  
555 Alabama 1975, are amended to read as follows:

556 "§28-3A-21

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

560 (1) Manufacturer license, license fee of five hundred



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561 dollars (\$500).

562 (2) Importer license, license fee of five hundred  
563 dollars (\$500).

564 (3) Liquor ~~wholesale~~wholesaler license, license fee of  
565 five hundred dollars (\$500).

566 (4) ~~Wholesaler~~Beer wholesaler license, ~~beer~~ license fee  
567 of five hundred fifty dollars (\$550) ~~or wine license fee of~~  
568 ~~five hundred fifty dollars (\$550); license fee for beer and~~  
569 ~~wine of seven hundred fifty dollars (\$750);~~ plus two hundred  
570 dollars (\$200) for each warehouse in addition to the principal  
571 warehouse.

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

575 (6) Mixed spirit beverage wholesaler license, license  
576 fee of five hundred fifty dollars (\$550) plus two hundred  
577 dollars (\$200) for each warehouse in addition to the principal  
578 warehouse.

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

583 ~~(5)~~ (8) Warehouse license, license fee of two hundred  
584 dollars (\$200).

585 ~~(6)~~ (9) Lounge retail liquor license, license fee of  
586 three hundred dollars (\$300).

587 ~~(7)~~ (10) Restaurant retail liquor license, license fee  
588 of three hundred dollars (\$300).



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589           ~~(8)~~ (11) Club liquor license, Class I license fee of  
590 three hundred dollars (\$300), Class II license fee of seven  
591 hundred fifty dollars (\$750).

592           ~~(9)~~ (12) Retail table wine license for off-premises  
593 consumption, license fee of one hundred fifty dollars (\$150).

594           ~~(10)~~ (13) Retail table wine license for on-premises and  
595 off-premises consumption, license fee of one hundred fifty  
596 dollars (\$150).

597           ~~(11)~~ (14) Retail beer license for on-premises and  
598 off-premises consumption, license fee of one hundred fifty  
599 dollars (\$150).

600           ~~(12)~~ (15) Retail beer license for off-premises  
601 consumption, license fee of one hundred fifty dollars (\$150).

602           ~~(13)~~ (16) Retail common carrier liquor license, license  
603 fee of one hundred fifty dollars (\$150) for each railroad,  
604 airline, bus line, ship line, vessel, or other common carrier  
605 entity with a vehicle passenger capacity of at least 10  
606 people.

607           ~~(14)~~ (17) Special retail license, license fee of one  
608 hundred dollars (\$100) for 30 days or less; license fee of two  
609 hundred fifty dollars (\$250) for more than 30 days.

610           ~~(15)~~ (18) Special events retail license, license fee of  
611 one hundred fifty dollars (\$150).

612           (19) Mixed spirit expanded retail license, license fee  
613 of five hundred dollars (\$500).

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

616           (c) In addition to the foregoing filing fee and license



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617 taxes or fees, any county or municipality in which the sale of  
618 alcoholic beverages is permitted ~~shall be authorized to~~may fix  
619 and levy privileges or license taxes on any of the foregoing  
620 licenses located or operated therein, conditioned on a permit  
621 or license being issued by the board.

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

624 "§28-3A-23

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

629 (b) Licenses shall be granted and issued by the board  
630 only to reputable individuals, to associations whose members  
631 are reputable individuals, or to reputable corporations  
632 organized under the laws of this state or duly qualified  
633 thereunder to do business in Alabama, or, in the case of  
634 manufacturers, duly registered under the laws of Alabama, and  
635 then only when it appears that all officers and directors of  
636 the corporation are reputable individuals.

637 (c) (1) In addition to all other requirements, an  
638 applicant for a license under this section shall submit to the  
639 board a form, sworn to by the applicant, providing written  
640 consent from the applicant for the release of criminal history  
641 background information. The form shall also require the  
642 applicant's name, date of birth, and Social Security number  
643 for completion of a criminal history background check.

644 (2) An applicant shall provide the board with two





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645 complete functional sets of fingerprints, either cards or  
646 electronic, properly executed by a criminal justice agency or  
647 an individual properly trained in fingerprinting techniques.  
648 The fingerprints and form shall be submitted by the board to  
649 the State Bureau of ~~Investigations~~Investigation of the Alabama  
650 Law Enforcement Agency for the purposes of furnishing criminal  
651 background checks. The State Bureau of  
652 ~~Investigations~~Investigation shall forward a copy of the  
653 applicant's prints to the Federal Bureau of Investigation for  
654 a national criminal background check. The applicant shall pay  
655 all costs associated with the background checks required by  
656 this section.

657 (3) For purposes of this section, the term "applicant"  
658 ~~shall include~~includes every person who has any proprietary or  
659 profit interest of 10 percent or more in the licensed  
660 establishment, but shall not include any public corporation  
661 whose shares are traded on a recognized stock exchange.

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

667 (d) Every license issued under this ~~title~~chapter shall  
668 be constantly and conspicuously displayed on the licensed  
669 premises.

670 (e) Each retail liquor license application must be  
671 approved by the governing authority of the municipality if the  
672 retailer is located in a municipality, or by the county



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673 commission if the retailer is located in the county and  
674 outside the limits of the municipality, before the board shall  
675 have authority to grant the license.

676 (f) Any retailer may be granted licenses to maintain,  
677 operate, or conduct any number of places for the sale of  
678 alcoholic beverages, but a separate license must be secured  
679 for each place where alcoholic beverages are sold. No retail  
680 license issued under this ~~title~~chapter shall be used for more  
681 than one premises, nor for separate types of operation on the  
682 same premises. Provided, however, any such licensed retail  
683 operation existing on May 14, 2009, and operating based on  
684 dual licenses, both a club or lounge license and a restaurant  
685 license, on the same premises shall be exempt from the  
686 requirement of the preceding sentence and may continue to  
687 operate under the dual licenses. Any rule adopted by the board  
688 relating to the requirements concerning dual licenses, both a  
689 club or lounge license and a restaurant license, shall not  
690 apply to any retail operation existing on May 14, 2009. The  
691 rules shall include, but not be limited to, the maintenance of  
692 separate books, separate entrances, and separate inventories.  
693 Each premises must have a separate retail license. Where more  
694 than one retail operation is located within the same building,  
695 each operation under a separate or different ownership is  
696 required to obtain a separate retail license; and where more  
697 than one type of retail operation located within the same  
698 building is operated by the same licensee, the licensee must  
699 have a license for each type of retail operation. Provided,  
700 there shall be no licenses issued by the board for the sale of



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701 liquor, beer, or wine by rolling stores.

702 (g) No retailer shall sell any alcoholic beverages for  
703 consumption on the licensed premises except in a room or rooms  
704 or place on the licensed premises at all times accessible to  
705 the use and accommodation of the general public; but this  
706 section shall not be interpreted to prevent a hotel or club  
707 licensee from selling alcoholic beverages in any room of the  
708 hotel or club house occupied by a bona fide registered guest  
709 or member or private party entitled to purchase the same.

710 (h) All beer, except draft or keg beer, sold by  
711 retailers must be sold or dispensed in bottles, cans, or other  
712 containers not to exceed 25.4 ounces. All wine sold by  
713 retailers for off-premises consumption must be sold or  
714 dispensed in bottles or other containers in accordance with  
715 the standards of fill specified in the then effective  
716 standards of fill for wine prescribed by the U.S. Treasury  
717 Department.

718 (i) Draft or keg beer may be sold or dispensed within  
719 this state within those counties in which and in the manner in  
720 which the sale of draft or keg beer was authorized by law on  
721 September 30, 1980, or in which the sale of draft or keg beer  
722 is hereafter authorized by law. ~~In rural communities with a  
723 predominantly foreign population, after the payment of the tax  
724 imposed by this title, draft or keg beer may be sold or  
725 dispensed by special permit from the board, when, in the  
726 judgment of the board, the use and consumption of draft or keg  
727 beer is in accordance with the habit and customs of the people  
728 of any such rural community. The board may grant to any civic~~



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729 ~~center authority or its franchisee or concessionaire, to which~~  
730 ~~the board may have issued or may simultaneously issue a retail~~  
731 ~~license under the provisions of this title, a revocable~~  
732 ~~temporary permit to sell or dispense in any part of its civic~~  
733 ~~center, for consumption therein, draft or keg beer. Either~~  
734 ~~permit shall be promptly revoked by the board if, in its~~  
735 ~~judgment, the same tends to create intemperance or is~~  
736 ~~prejudicial to the welfare, health, peace, temperance, and~~  
737 ~~safety of the people of the community or of the state.~~

738 (j) No importer shall sell alcoholic beverages to any  
739 person other than a wholesaler licensee, or sell to a  
740 wholesaler licensee any brand or brands of alcoholic beverages  
741 for sale or distribution in this state, except where the  
742 importer has been granted written authorization from the  
743 manufacturer thereof to import and sell the brand or brands to  
744 be sold in this state, which authorization is on file with the  
745 board.

746 (k) No wholesaler shall maintain or operate any place  
747 where sales are made other than that for which the wholesale  
748 license is granted; provided, however, a wholesaler may be  
749 licensed to sell and distribute liquor, wine, ~~and~~ beer, and  
750 mixed spirit beverages. No wholesaler shall maintain any place  
751 for the storage of liquor, wine, ~~or~~ beer, or mixed spirit  
752 beverages unless the same has been approved by the board. No  
753 wholesaler license shall be issued for any premises in any  
754 part of which there is operated any retail license for the  
755 sale of alcoholic beverages.

756 (l) Licenses issued under this ~~title~~chapter may not be



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757 assigned. The board may transfer any license from one person  
758 to another, or from one place to another within the same  
759 governing jurisdiction, or both, as the board may determine;  
760 but no transfers shall be made to a person who would not have  
761 been eligible to receive the license originally, nor for the  
762 transaction of business at a place for which the license could  
763 not originally have been issued lawfully.

764 (m) Every applicant for a transfer of a license shall  
765 file a written application with the board within such time as  
766 the board shall fix in its rules. Whenever any license is  
767 transferred, there shall be collected a filing fee of fifty  
768 dollars (\$50), to be paid to the board, and the board shall  
769 pay the fee into the State Treasury to the credit of the Beer  
770 Tax and License Fund of the board.

771 (n) In the event that any person to whom a license has  
772 been issued under the terms of this ~~title~~chapter becomes  
773 insolvent, makes an assignment for the benefit of creditors,  
774 or is adjudicated as bankrupt by either voluntary or  
775 involuntary action, the license of the person shall  
776 immediately terminate and be ~~cancelled~~canceled without any  
777 action on the part of the board, and there shall be no refund  
778 made, or credit given, for the unused portion of the license  
779 fee for the remainder of the license year for which the  
780 license was granted. Thereafter, no license shall be issued by  
781 the board for the premises, wherein the license was conducted,  
782 to any assignee, committee, trustee, receiver, or successor of  
783 the licensee until a hearing has been held by the board as in  
784 the case of a new application for license. In all such cases,



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785 the board shall have the sole and final discretion as to the  
786 propriety of the issuance of a license for the premises, the  
787 time it shall issue, and the period for which it shall be  
788 issued, and shall have the further power to impose conditions  
789 under which the licensed premises shall be conducted."

790 Section 6. Chapter 8B, commencing with Section 28-8B-1,  
791 is added to Title 28 of the Code of Alabama 1975, to read as  
792 follows:

793 §28-8B-1

794 (a) The Legislature hereby finds and declares that this  
795 chapter is enacted pursuant to the authority granted to the  
796 state under the Twenty-First Amendment to the United States  
797 Constitution, the powers reserved to the state under the Tenth  
798 Amendment to the United States Constitution, and the inherent  
799 powers of the state under the Constitution of Alabama of 2022,  
800 in order to regulate the traffic of alcoholic beverages and to  
801 substitute the regulations and oversight established in this  
802 act for the application of federal and state antitrust laws  
803 that otherwise would apply to any potential anti-competitive  
804 effects of this title. For the avoidance of doubt, the intent  
805 of the Legislature is to maintain the uniform three-tier  
806 system of control over the sale, purchase, taxation,  
807 transportation, manufacture, consumption, and possession of  
808 alcoholic beverages in the state to promote the health,  
809 safety, and welfare of residents of this state by, among other  
810 purposes, ensuring the state shall be able to register, audit,  
811 inspect, seize, recall, and test alcoholic beverages shipped  
812 into, distributed, and sold throughout this state; and this



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813 expression of the policy and intent of the Legislature is  
814 intended to satisfy the clear articulation test for state  
815 action immunity as has been established by the United States  
816 Supreme Court in California Retail Liquor Dealers Assn. v.  
817 Midcal Aluminum, Inc., et al.

818 (b) If any provision of this chapter, or its  
819 application to any person or circumstance, is determined by a  
820 court to be invalid or unconstitutional, that provision shall  
821 be stricken and the remaining provisions shall be construed in  
822 accordance with the intent of the Legislature to further limit  
823 rather than expand commerce in alcoholic beverages, including  
824 by prohibiting any commerce in alcoholic beverages not  
825 expressly authorized, and to enhance strict regulatory control  
826 over taxation, distribution, and sale of alcoholic beverages  
827 through the existing uniform system of regulation of alcoholic  
828 beverages.

829 §28-8B-2

830 (a) This chapter applies only to mixed spirit beverages  
831 and does not apply to regulation of beer or wine franchises.

832 (b) Nothing in this chapter shall be deemed to repeal  
833 or amend any existing beer or wine franchise laws. This  
834 chapter is intended to address mixed spirit beverages, and to  
835 leave in effect and unchanged any local or state franchise  
836 laws existing on the effective date of this act.

837 §28-8B-3

838 (a) Each supplier of mixed spirit beverages licensed by  
839 the board to sell its mixed spirit beverages within the State  
840 of Alabama shall sell its mixed spirit beverages only through



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841 wholesaler licensees of the board and shall grant in writing  
842 to each of its wholesalers a distribution agreement which  
843 contains the wholesaler's exclusive sales territory for the  
844 distribution of the supplier's designated brand in accordance  
845 with Chapter 8.

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

849 §28-8B-4

850 (a) For the purposes of this chapter, the following  
851 terms have the following meanings:

852 (1) DISTRIBUTION AGREEMENT. Any written and signed  
853 agreement between a wholesaler and a supplier, whereby a  
854 wholesaler is granted the right to purchase and sell a brand  
855 of mixed spirit beverages sold by a supplier.

856 (2) FAIR MARKET VALUE. An amount equal to a multiple of  
857 the wholesaler's gross profit on the wholesaler's sales of the  
858 supplier's products in the 12-month period immediately  
859 preceding the date of the notice of termination or non-renewal  
860 by supplier.

861 (3) GOOD CAUSE. A material breach by the wholesaler of  
862 an essential element in a distribution agreement with a  
863 supplier which is uncured or which reoccurs three or more  
864 times.

865 (4) GROSS PROFIT. The wholesaler's selling price, net  
866 of promotions, discounts, allowances, and freight, of the  
867 products sold during such 12-month period, less the  
868 wholesaler's cost to purchase the products from the supplier,





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869 net of any discounts, promotions, and allowances from  
870 supplier.

871 (b) Upon a supplier's termination or non-renewal of a  
872 distribution agreement with a wholesaler, except where  
873 termination or non-renewal is for good cause, the supplier  
874 shall pay the wholesaler reasonable compensation in an amount  
875 equal to the fair market value of the wholesaler's business  
876 attributable to the supplier's portfolio, including the value  
877 of the distribution rights, current saleable inventory,  
878 goodwill, and other relevant assets.

879 (c) The supplier and wholesaler shall have 30 days  
880 following receipt of the supplier's notice of termination or  
881 non-renewal to agree upon a multiple of gross profit in  
882 determining fair market value. Following the notice of  
883 termination or non-renewal, but prior to determination of the  
884 fair market value of the supplier's portfolio, the supplier  
885 and wholesaler shall each continue to operate in good faith in  
886 the regular course of the business relationship.

887 (d) (1) In determining fair market value, in the event  
888 that supplier and wholesaler cannot agree upon the multiple of  
889 gross profit after 30 days, the parties shall then have 10  
890 business days to each, at their own cost, appoint an  
891 independent third-party appraiser with demonstrable experience  
892 in valuating alcohol beverage distribution rights. Each  
893 party's independent appraiser, within 30 days, shall submit in  
894 writing the fair market value appraisal of the supplier's  
895 portfolio, including disclosing the multiple of gross profit  
896 used to arrive at the valuation.



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897 (2) If the independent appraisers' valuations of the  
898 supplier's portfolio are within 10 percent of each other, the  
899 fair market value shall be the average of the two valuations.

900 (3) If the independent appraisers' valuations are not  
901 within 10 percent of each other, a third independent appraiser  
902 with experience in valuating alcohol beverage distribution  
903 rights shall be retained by mutual agreement of the parties  
904 within 10 business days to assess the fair market value, and  
905 the fair market value shall be submitted in writing by the  
906 third independent appraiser within 30 days. The cost of the  
907 third independent appraiser shall be shared equally by the  
908 parties. The fair market value shall then be the average of:  
909 (i) the third independent appraiser's valuation and (ii) the  
910 average of the first two valuations.

911 (e) The supplier shall have no more than seven business  
912 days after the determination of fair market value within which  
913 to remit payment of reasonable compensation to the wholesaler.

914 Section 7. If any provision of this act, or its  
915 application to any person or circumstance, is determined by a  
916 court to be invalid or unconstitutional, that provision shall  
917 be stricken and the remaining provisions shall be construed in  
918 accordance with the intent of the Legislature to further limit  
919 rather than expand commerce in alcoholic beverages, including  
920 by prohibiting any commerce in alcoholic beverages not  
921 expressly authorized, and to enhance strict regulatory control  
922 over taxation, distribution, and sale of alcoholic beverages  
923 through the existing uniform system of regulation of alcoholic  
924 beverages.



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925                   Section 8. This act shall become effective on October  
926   1, 2025.