



SYNOPSIS:

This bill would create a new licensure category under the Alcoholic Beverage Control Board to be known as an "educational tourism distillery," which would allow a distiller of liquor which hosts the public for tours to sell both the liquor it manufactures on site, and other alcoholic beverages at retail, to patrons for consumption at various locations on its premises.

This bill would require an educational tourism distillery licensee to pay tax on the liquor it manufacturers at the same rate at which liquor sold at an Alcoholic Beverage Control Board store is taxed.

This bill would also 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 further require suppliers of



29 mixed spirit beverages to designate exclusive sales
30 territories for each brand and enter into a
31 distribution agreement with a licensed wholesaler for
32 each sales territory, and would set requirements for
33 distribution agreements between suppliers and wholesale
34 distributors of mixed spirit beverages.

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38 A BILL
39 TO BE ENTITLED
40 AN ACT
41

42 Relating to alcoholic beverages; to add Section
43 28-3A-6.5 to the Code of Alabama 1975, to require the
44 Alcoholic Beverage Control Board to issue an educational
45 tourism distillery license; to regulate retail sale of
46 alcoholic beverages by the licensee; to levy a tax on liquor
47 manufactured by the licensee; to provide for storage of liquor
48 manufactured by the licensee; to amend Section 28-6A-2, Code
49 of Alabama 1975, to allow small farm wineries to sell and
50 deliver wine to educational tourism distilleries; to amend
51 Sections 28-3-1, 28-3A-3, and 28-3A-23, Code of Alabama 1975;
52 to define a new category of low-alcohol content liquor
53 beverages called mixed spirit beverages; to add Section
54 28-3-208 to the Code of Alabama 1975, to levy an excise tax
55 upon the distribution of mixed spirit beverages; to add
56 Section 28-1-9 to the Code of Alabama 1975, to regulate the



display by retailers of mixed spirit and other alcoholic beverages; to add Section 28-3A-9.1 to the Code of Alabama 1975, to provide a license for wholesalers of mixed spirit beverages; to add Section 28-3A-17.3 to the Code of Alabama 1975, to provide licenses for retailers of mixed spirit beverages; to amend Section 28-3A-21, Code of Alabama 1975, to set fees for the educational tourism distillery license and the mixed spirit beverage wholesaler and retailer licenses; to amend Sections 28-3A-1.5, 28-3A-11, 28-3A-12, 28-3A-13, 28-3A-17.2, 28-3A-18, 28-3A-19, 28-3A-19.1, and 28-3A-20, Code of Alabama 1975, to make conforming changes; and to add Chapter 8B to Title 28 of the Code of Alabama 1975, to require licensed importers, manufacturers, and suppliers of mixed spirit beverages to enter into exclusive sales territory distribution agreements with wholesalers.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 28-3A-6.5 is added to the Code of Alabama 1975, as follows:

§28-3A-6.5

(a)(1) Upon compliance by an applicant with this section and this chapter and provided the operation shall be in compliance with state and federal laws, rules, and regulations, the Alabama Alcoholic Beverage Control Board may issue an Educational Tourism Distillery license to any person, association, or corporation engaged in the producing, bottling, manufacturing, distilling, rectifying, or compounding of liquor upon payment of the license fee as established in Section 28-3A-21.



85 (2) For the purposes of this section, an Educational
86 Tourism Distillery licensee must produce, bottle, manufacture,
87 distill, rectify, or compound 100,000 gallons or more of
88 liquor a year.

89 (3) For purposes of this section, the total gross
90 sales of an Educational Tourism Distillery licensee must be 50
91 percent or more from liquor products produced, bottled,
92 manufactured, distilled, rectified, or compounded on site.

93 (4) For purposes of this section, an Educational
94 Tourism Distillery licensee may export sales outside of the
95 State of Alabama.

96 (5) Any licensee operating under or in conjunction
97 with an Educational Tourism Distillery license shall be
98 responsible for ensuring compliance with all applicable laws
99 and board rules relating to the sale of alcohol.

100 (b) An Educational Tourism Distillery license
101 authorizes the licensee to do all of the following on the
102 premises pursuant to this section:

103 (1) Purchase other liquor and wine from the board, or
104 as authorized by the board; purchase table wine and beer from
105 any wholesale licensee of the board; and sell liquor, wine,
106 and beer dispensed from containers of any size, to include
107 draft beer, for on-premises consumption. The sale of alcoholic
108 beverages under this subdivision shall be confined to a
109 designated enclosed area comprising no fewer than 500 square
110 feet for service and consumption, within which patrons under
111 21 years of age are prohibited from entering. Any liquor
112 manufactured at the licensed premises may be sold for



on-premises consumption in this designated area, provided that the total amount of liquor sold in a single tasting or sampling flight does not exceed one and one-half ounces.

(2) Purchase other liquor and wine from the board, or as authorized by the board; purchase table wine and beer from any wholesale licensee of the board; and sell liquor, wine, and beer dispensed from containers of any size, to include draft beer, for on-premises consumption in a freestanding separate structure on the licensed premises where the licensee provides or serves food. Any liquor manufactured at the licensed premises may be sold at retail for on-premises consumption in the designated area.

(3) Purchase other liquor and wine from the board, or as authorized by the board; purchase table wine and beer from any wholesale licensee of the board; and sell liquor, wine, and beer dispensed from containers of any size, to include draft beer, for on-premises consumption at temporary or permanently designated serving stations on the licensed premises for special events such as receptions, parties, or similar gatherings. A licensee shall post at each of its special event serving stations at least one sign warning customers that the sale of alcoholic beverages to patrons under 21 years of age is strictly prohibited. Any liquor manufactured at the licensed premises may be sold for on-premises consumption in the designated serving stations.

(4) Sell at retail in a designated enclosed area which shall be separate from all other designated areas on the licensed premises, for off-premises consumption, liquor



141 manufactured at the licensed premises; provided, however,
142 liquor sold for off-premises consumption may not exceed four
143 and one-half liters per customer per day and shall be sealed,
144 labeled, packaged, and taxed in accordance with state and
145 federal laws and regulations.

146 (5) Must provide patrons with the opportunity to
147 participate in a guided tour of the distillery operations,
148 which tours must include an educational component in which an
149 in-person guide provides information to patrons regarding the
150 historic and scientific characteristics of the liquor
151 manufactured at the licensed premises. A licensee may offer a
152 tasting or sampling of liquor manufactured at the licensed
153 premises at the conclusion of each tour in a designated
154 enclosed area which shall be separate from all other
155 designated areas on the licensed premises, provided that the
156 total amount of liquor provided to each patron for such
157 tasting or sampling does not exceed one and one-half ounces.
158 The price of such tasting or sampling shall be included in the
159 price charged to patrons over 21 years of age for the guided
160 tour. No retail sales shall be authorized in the designated
161 area.

162 (c) An Educational Tourism Distillery licensee may
163 transfer liquor directly from a licensed manufacturer. For the
164 purposes of this subdivision, the licensee must have a 75
165 percent ownership or control of the brand or product received
166 by the licensee.

167 (d) The licensed premises must contain a distillery
168 operation that encompasses no fewer than 5,000 square feet in



one or more structures.

(e) There is levied and assessed upon all liquor manufactured on the premises that is dispensed or sold at retail for on-premises or off-premises consumption, as well as samplings and tastings consumed as provided in this section, the mark up and the privilege or excise tax imposed on the retail sale of liquor in a state liquor store, in the same manner as if collected in a state liquor store. Taxes and markup described in this subsection shall be remitted by the licensee to the board. The respective mark up and taxes collected will be distributed, respectively, in the same manner as the mark up and taxes collected in an ABC liquor store.

(f) The tax levied in subsection (e) shall be collected by a return which shall be filed by the licensee with the board postmarked not later than the last day of the month following the month of production or sale of liquor, which shall be accompanied by the remittance of the tax due. The report shall include, but not be limited to, a consolidated report of all liquor manufactured, sold, or otherwise consumed on the licensed location. The report shall be in the form and containing information as the board may prescribe.

(1) If a licensee fails to file any return required to be filed with the board on or before the date prescribed therefor, including any written extension of time granted by the board in advance, there shall be assessed as a penalty the greater of 10 percent of any additional tax required to be



197 paid with the return or fifty dollars (\$50).

198 (2) If a licensee fails to pay to the board the amount
199 of the tax due on a return required to be filed on or before
200 the date prescribed for payment of the tax, including any
201 written extension of time granted by the board in advance,
202 there shall be added as a penalty 10 percent of the unpaid
203 amount due on the return.

204 (3) Interest shall be added to any tax due to the
205 board which is not paid by the due date, from the due date of
206 the tax, computed based on the underpayment rate established
207 by the Secretary of the Treasury under the authority of 26
208 U.S.C. § 6621.

209 (g) An Educational Tourism Distillery licensee shall
210 not sell any alcoholic beverages direct to any retailer.

211 (h) An Educational Tourism Distillery licensee shall
212 file with the board, prior to making any sales in Alabama, a
213 list of its labels to be sold in Alabama and shall file with
214 the board its federal certificate of label approvals or its
215 certificates of exemption as required by the U.S. Treasury
216 Department. All liquors whose labels have not been registered
217 as herein provided for shall be considered contraband and may
218 be seized by the board or its agents, or any peace officer of
219 the State of Alabama without a warrant and the goods shall be
220 delivered to the board and disposed of as provided by law.

221 (i) (1) An Educational Tourism Distillery licensee
222 shall keep at its principal place of business within the state
223 daily permanent records that show the quantities of raw
224 materials received and used in the manufacture of liquor, and



the quantities of alcoholic beverages manufactured and stored, the sale of alcoholic beverages, the quantities of alcoholic beverages stored for hire or transported for hire by or for the licensee, and the names and addresses of the purchasers or other recipients thereof.

(2) An Educational Tourism Distillery licensee shall keep and maintain for a minimum of three years all records required to be kept and maintained at the licensed location by manufacturer, wholesaler, and retailer licensees for the tax so levied except that the Educational Tourism Distillery is not required to maintain name, address, or other personal demographic information for sales as provided in subdivision (1).

(j) An Educational Tourism Distillery licensee shall be subject to inspection by members of the board or by individuals authorized and designated by the board at any time of the day or night as they may deem necessary for the detection of violations of this chapter, of any law, or of the rules of the board, or for the purpose of ascertaining the correctness of the records required to be kept by the licensees. The books and records of licensees, at all times, shall be open to inspection by members of the board or by individuals authorized and designated by the board. Members of the board and its authorized agents, without hindrance, may enter any place that is subject to inspection hereunder or any place where records are kept for the purpose of making inspections and making transcripts thereof.

(k) An Educational Tourism Distillery Licensee may be



certified in the Responsible Vendor Program.

(l) A licensee shall post in each of its locations where alcoholic beverages are served at least one sign warning customers that the sale of alcoholic beverages to patrons under 21 years of age is strictly prohibited. The sign shall be posted at a point of sale or in any other location that is visible to customers and employees.

(m) An Educational Tourism Distillery licensee shall maintain a surety bond of not less than twenty-five thousand dollars (\$25,000), payable to the Alabama Alcoholic Beverage Control Board for any outstanding fine, penalty, or tax.

(n) Upon approval of the Alabama Alcoholic Beverage Control Board, a licensee shall be allowed one off-premises manufacturer extension location for the exclusive storage of finished and unfinished goods pursuant to this section:

(1) A licensee must provide documentation indicating approval from the Alcohol and Tobacco Tax and Trade Bureau for the extension. Prior to a manufacturer extension being issued in Alabama, the licensee must provide all of the following:

a. Approval of the manufacturer extension from the Alcohol and Tobacco Tax and Trade Bureau.

b. A lease, deed, or other document showing control of the property.

c. A current, valid Educational Tourism Distillery license from the board.

(2) The application for a manufacturing extension must be approved by the board prior to its use.

(3) The manufacturer extension premises must be



281 secured at all times.

282 (4) The manufacturer extension premises cannot be used
283 for the exportation of products nor any form of distribution
284 of products within Alabama.

285 (5) Except where otherwise prohibited by federal or
286 state statute, a licensee may obtain a manufacturer extension
287 for a building located 10 miles or less from the original
288 licensed premises. A manufacturer extension will be prohibited
289 outside the State of Alabama.

290 (6) Authorized representatives of the board or
291 commissioned law enforcement officers of the state, county, or
292 municipality in which the manufacturer extension premises is
293 located shall be allowed to enter and search, without a
294 warrant, the manufacturer extension premises or any building
295 owned or occupied by the licensee in connection therewith,
296 adjoining, adjacent to, or part of the curtilage thereof,
297 whether used as a private dwelling or not, at any time.

298 (7) No sales, sampling, or tastings of any alcoholic
299 beverage shall be allowed at the manufacturer extension
300 premises.

301 (8) A licensee under this section that is issued a
302 manufacturer extension must maintain all records related to
303 the disposition of the finished or unfinished goods stored in
304 the extension, as applicable.

305 (9) The finished and unfinished goods may be
306 transported in bond from the licensed premises to the
307 manufacturer extension location for storage, as applicable.
308 Transportation shall be made by the licensee or employee of



the same in a vehicle bearing signage on each side identifying the licensee. Included in the transportation vehicle shall be a current copy of the manufacturer extension and the bill of lading or other documentary evidence of ownership of the product on board.

Section 2. Section 28-6A-2, Code of Alabama 1975, is amended to read as follows:

"§28-6A-2

(a) (1) For the purposes of this section, the term "table wine" includes mead.

(2) For the purposes of this section, a "small farm winery" means a manufacturer of table wine licensed by the Alcoholic Beverage Control Board, which produces fewer than 50,000 gallons of table wine per year, and meets one of the following criteria:

a. Produces at least 50 percent of its total production of table wine from fruit that is grown, or honey that is harvested, in this state.

b. Produces all of its total production of table wine within this state and owns not less than eight acres of vineyards in this state.

(3) For the purposes of this section, table wine that has been produced by a manufacturer, or a subsidiary or affiliate or other related entity of the manufacturer, and table wine produced exclusively for the winery by another manufacturer shall be considered to be produced by the winery and shall be included in the 50,000 gallon limit provided in subdivision (2).



(b) A catastrophic loss to produce grown in this state, including, but not limited to, one caused by drought or frost, may not disqualify a small farm winery if the winery qualified as a small farm winery prior to the catastrophic loss.

(c) Notwithstanding any provision of this title to the contrary, a small farm winery may do all of the following:

(1) Sell its table wines produced on its licensed premises directly from its licensed premises at retail to consumers physically present at the licensed premises, either for on-premises or off-premises consumption, for personal use and not for resale; provided, the winery collects and remits all state and local sales or use taxes and excise taxes due on the sale of table wine to consumers, packages and labels the wine in accordance with state and federal law, and reports its annual production of table wine to the board.

(2)a. Either of the following, provided that transportation of wine under this subdivision is made by the winery's employees in a vehicle owned or leased by the winery:

1. Sell and transport up to 10,000 gallons of its table wine produced on its licensed premises directly to licensed retailers each year.

2. Sell and transport up to 20,000 gallons of its table wine produced on its licensed premises directly to licensed retailers each year, if the winery provides to the board proof that the winery's table wine has been declined to be distributed by two separate wholesalers of table wine. If the winery's table wine has been accepted for distribution by any wholesaler of table wine, then the winery may not sell its



table wine directly to retailers under this paragraph.

b. For purposes of this subdivision, "retailers" include those that are licensed by the board for on-premises consumption, for off-premises consumption, or for both.

c. If a winery sells and transports 20,000 total gallons of table wine directly to retailers as provided in this subdivision in any one year, that winery may not subsequently sell and transport table wine directly to retailers under this subdivision.

d. Notwithstanding any other provision of this section to the contrary, a small farm winery may only sell and transport table wine that has been approved by the board for sale within the state and for which the small farm winery owns the Certificate of Label Approval issued by the Alcohol and Tobacco Tax and Trade Bureau.

(3) Provided that transportation of wine under this subdivision is made by the winery's employees in a vehicle owned or leased by the winery, sell and transport its table wine to an educational tourism distillery licensed under this title solely for on-premises consumption at the educational tourism distillery pursuant to law and board rules.

(d) A county or a municipality may not require a small farm winery to pay any fees, including business licensure fees, to make sales or deliveries under this section, or any additional local tax other than the tax described in subdivision (c) (1).

(e) (1) A small farm winery shall maintain records verifying that the winery meets the qualifications under this



section, and shall provide those records to the board upon request.

(2) A small farm winery shall report to the board each month the amount of table wine sold directly to each licensed retailer under this section.

(f) The board shall adopt rules to implement this section."

Section 3. Section 28-1-9 is added to the Code of Alabama 1975:

§28-1-9

(a) No alcoholic beverage products shall be sold or distributed within the state without having first received approval of the label thereon by the board.

(b) No alcoholic beverage shall be marketed, displayed, labeled, or advertised in a way calculated to do either of the following:

(1) Appeal to minors.

(2) Include statements, artwork, or designs that could easily mislead an individual to believe that the product is not an alcoholic beverage.

(c) No label shall be approved by the board which would violate any rule of the board which governs general advertising.

(d) Alcoholic beverages for retail sale shall be displayed in such a way that they are separated from nonalcoholic beverages, dual-branded beverages, or beverages intended for children.

(e) Any licensed premises containing less than 500 square feet in capacity in which it is unfeasible to separate



the display of mixed spirit beverages from nonalcoholic beverages shall prominently post signage that states: "The products in this area contain alcohol and are not permitted for sale to anyone under 21 years of age."

Section 4. Section 28-3-1, Code of Alabama 1975, is amended to read as follows:

"§28-3-1

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

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

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

(3) BEER, or MALT OR BREWED BEVERAGES. Any beer, lager beer, ale, porter, malt or brewed beverage, or similar fermented beverage containing one-half of one percent or more of alcohol by volume and not in excess of~~thirteen and nine-tenths~~13.9 percent alcohol by volume, brewed or produced from malt, wholly or in part, or from rice, grain of any kind, bran, glucose, sugar, or molasses. A beer or malt or brewed



beverage may incorporate honey, fruit, fruit juice, fruit concentrate, herbs, spices, or other flavorings during the fermentation process. The term does not include any product defined as liquor, table wine, ~~or~~ wine, or mixed spirit beverages.

(4) BOARD. The Alcoholic Beverage Control Board.

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

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

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

(8) CLUB.

a. Class I. A corporation or association organized or formed in good faith by authority of law and which must have at least 150 paid-up members. It must be the owner, lessee, or occupant of an establishment operated solely for the objects of a national, social, patriotic, political, or athletic nature or the like, but not for pecuniary gain, and the property as well as the advantages of which, belong to all the members and which maintains an establishment provided with



special space and accommodations where, in consideration of payment, food with or without lodging is habitually served. The club shall hold regular meetings, continue its business through officers regularly elected, admit members by written application, investigation, and ballot, and charge and collect dues from elected members.

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

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

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

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

(12) DELIVERY SERVICE LICENSE. A license issued by the



Alabama Alcoholic Beverage Control Board in accordance with Section 28-3A-13.1 that authorizes the licensee, the licensee's employees, or independent contractors under a contractual or business arrangement with the licensee to transport and deliver alcoholic beverages.

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

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

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

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

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

b. Services, including supplementation and



533 supplementary services under the federal Social Security Act,
534 to or on behalf of persons to whom public assistance may be
535 given under Sections 38-2-5 and 38-4-1.

536 c. Service to and on behalf of dependent, neglected, or
537 delinquent children.

538 d. Investigative and referral services to and on behalf
539 of needy persons.

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

544 (18) HOTEL. A building or buildings held out to the
545 public for housing accommodations of travelers or transients,
546 and shall include a motel, but shall not include a rooming
547 house or boarding house.

548 (19) IMPORTER. Any person, association, or corporation
549 engaged in importing alcoholic beverages, liquor, wine, ~~or~~
550 beer, or mixed spirit beverages manufactured outside of the
551 United States of America into this state or for sale or
552 distribution in this state, or to the board or to a licensee
553 of the board.

554 (20) INDEPENDENT CONTRACTOR. An individual to whom an
555 employer is required to issue a 1099 tax form under federal
556 law.

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

560 (22) LIQUOR. Any alcoholic, spirituous, vinous,



561 fermented, or other alcoholic beverage, or combination of
562 liquors and mixed liquor, a part of which is spirituous,
563 fermented, vinous, or otherwise alcoholic, and all drinks or
564 drinkable liquids, preparations, or mixtures intended for
565 beverage purposes, which contain one-half of one percent or
566 more of alcohol by volume, except beer, ~~and~~ table wine, and
567 mixed spirit beverages.

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

571 (24) MANUFACTURER. Any person, association, or
572 corporation engaged in the producing, bottling, manufacturing,
573 distilling, fermenting, brewing, rectifying, or compounding of
574 alcoholic beverages, liquor, beer, ~~or~~ wine, or mixed spirit
575 beverages in this state or for sale or distribution in this
576 state or to the board or to a licensee of the board.

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

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

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

588 (28) MIXED SPIRIT BEVERAGES. A single-serve beverage



containing liquor, packaged in a can or other container
approved by the board no larger than 16 ounces, and which
contains no more than seven percent alcohol by volume. The
term does not include any beverage containing liquor over 16
ounces in size or of more than seven percent alcohol by
volume.

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

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

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

~~(31)~~ (32) RESTAURANT. A reputable place licensed as a
restaurant, operated by a responsible person of good
reputation, and habitually and principally used for the



purpose of preparing and serving meals for the public to consume on the premises.

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

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

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

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

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

~~(37)~~ (38) WET COUNTY. Any county which by a majority of those voting voted in the affirmative in an election ~~heretofore~~ held in accordance with the statutes applicable at the time of the election or may hereafter vote in the



645 affirmative in an election or special method referendum held
646 in accordance with Chapter 2, or other statutes applicable at
647 the time of the election.

648 ~~(38)~~ (39) WET MUNICIPALITY. Any municipality in a dry
649 county which by a majority of those voting voted in the
650 affirmative in a municipal option election ~~heretofore or~~
651 ~~hereafter~~ held in accordance with ~~the provisions of Act~~
652 ~~84-408, Acts of Alabama 1984, appearing as~~ Chapter 2A of this
653 title, ~~as amended,~~ or any act hereafter enacted permitting
654 municipal option election, or any municipality which became
655 wet by vote of the governing body or by the voters of the
656 municipality ~~heretofore or hereafter~~ held under the special
657 method referendum provisions of Section 28-2-22, or as
658 hereafter provided, where the county has become dry subsequent
659 to the elected wet status of the municipality.

660 ~~(39)~~ (40) WHOLESALER. Any person licensed by the board
661 to engage in the sale and distribution of table wine, ~~and~~
662 beer, or mixed spirit beverages, or ~~either any combination~~
663 thereof ~~of them,~~ within this state, at wholesale only, to be
664 sold by export or to retail licensees or other wholesale
665 licensees or others within this state lawfully authorized to
666 sell table wine, ~~and~~ beer, or mixed spirit beverages, or
667 ~~either any combination thereof~~ of them, for the purpose of
668 resale only.

669 ~~(40)~~ (41) WINE. All beverages made from the fermentation
670 of fruits, berries, or grapes, with or without added spirits,
671 and produced in accordance with the laws and regulations of
672 the United States, containing not more than 24 percent alcohol



by volume, and shall include all sparkling wines, carbonated wines, special natural wines, rectified wines, vermouths, vinous beverages, vinous liquors, and like products, including restored or unrestored pure condensed juice."

Section 5. Section 28-3-208 is added to the Code of Alabama 1975, to read as follows:

§28-3-208

(a) There is levied, in addition to the license taxes provided for by this chapter and municipal and county license taxes, a privilege or excise tax measured by and graduated in accordance with the volume of sales of mixed spirit beverages, which shall be an amount equal to three and five-tenths cents (\$.035) per ounce or fractional part thereof.

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

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

(2) The tax levied by subsection (a) shall be collected



by a monthly return as follows:

a. The wholesaler shall file a monthly return with the board no later than the 15th day of the second month following the month of receipt of mixed spirit beverages by the wholesaler on a form prescribed by the board showing receipts by the wholesaler from manufacturers, importers, or other wholesaler licensees during the month of receipt and the tax due thereon at the rate of three and five-tenths cents (\$.035) per ounce of mixed spirit beverages sold to the wholesaler. The tax due at this rate shall be remitted to the board along with the return.

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

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

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

(1) One-half of the mixed spirit beverages tax shall be



729 deposited in the State General Fund.

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

733 (3) The mixed spirit beverages tax remitted by the
734 wholesaler to either the county or municipality under
735 paragraph (b) (2)b. shall be distributed as provided in Section
736 28-3-190.

737 (d) The tax levied under this section shall be in lieu
738 of all other and additional taxes of the state, county, or
739 municipality, imposed on or measured by the volume of sale of
740 mixed spirit beverages; provided, that nothing contained in
741 this section shall be construed to exempt the retail sale of
742 mixed spirit beverages from the levy of tax on general retail
743 sales by the state, county, or municipality in the nature of,
744 or in lieu of, a general sales tax.

745 (e) The tax levied by subsection (a) shall not be
746 imposed upon the sale, trade, or barter of mixed spirit
747 beverages by one licensed wholesaler to another wholesaler
748 licensed to sell and handle mixed spirit beverages in this
749 state, which transaction is made exempt from the tax;
750 provided, however, the board may require written reporting of
751 any such transaction in the form as the board may prescribe
752 pursuant to paragraph (b) (2)a.

753 (f) Each county may fix a reasonable privilege or
754 license fee on retail, importer, and wholesale licensees, for
755 the purpose of covering the cost of administration with
756 respect to the sale of mixed spirit beverages, but not to



757 generate revenue; provided, however, a county may not levy a
758 license or privilege tax or other charge for the privilege of
759 doing business as a mixed spirit beverages wholesaler,
760 importer, or retailer which shall exceed one-half the amount
761 of the state license fee.

762 (g) Nothing in this section shall be construed to
763 restrict a municipality's authority to issue a business
764 license pursuant to Article 2 of Chapter 51 of Title 11 on the
765 privilege of doing business as a mixed spirit beverage
766 wholesaler, importer, or retailer. Any business license issued
767 pursuant to Article 2 or Chapter 51 of Title 11 on the
768 privilege of doing business as a mixed spirit beverage
769 wholesaler, importer, or retailer shall not be measured by the
770 volume of sale for mixed spirit beverages.

771 Section 6. Section 28-3A-3 Code of Alabama 1975, is
772 amended to read as follows:

773 "§28-3A-3

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

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

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

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



785 ~~(4)~~d. To distribute, wholesale, or act as jobber for
786 the sale of table wine~~and beer or either of them~~, beer, or
787 mixed spirit beverages alone or in any combination to licensed
788 retailers within the state and others within this state
789 lawfully authorized to sell table wine,~~or~~ beer, or mixed
790 spirit beverages.

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

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

796 ~~(7)~~g. To sell and dispense at retail~~in an~~
797 ~~establishment habitually and principally used for the purpose~~
798 ~~of providing meals for the public, liquor and other~~, in a
799 restaurant, alcoholic beverages for on-premises consumption.

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

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

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

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

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

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

812 n. To sell mixed spirit beverages at retail for



on-premises and off-premises consumption.

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

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

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

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

s. To sell alcoholic beverages at retail under an educational tourism distillery license conditioned upon terms and conditions for the period of time prescribed by the board.

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



municipality therein, or within a dry municipality.

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

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

Section 7. Sections 28-3A-9.1 and 28-3A-17.3 are added to the Code of Alabama 1975, to read as follows:

§28-3A-9.1

(a) Upon payment of the applicable fee for a mixed spirit beverages wholesaler license as established in Section 28-3A-21, and the applicant's compliance with this chapter and rules adopted pursuant to this chapter, the board shall issue to a wholesaler a mixed spirit beverage wholesaler license.

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

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

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

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



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

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

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

877 (2) Notwithstanding this section, Section 28-3A-17.3,
878 or Chapter 8B, the board shall retain the authority to act as
879 a wholesaler of mixed spirit beverages, provided the board, as
880 a wholesaler, shall only distribute mixed spirit beverages to
881 state liquor stores.

882 §28-3A-17.3

883 (a) Upon payment of the limited mixed spirit beverage
884 expanded retail license fee as established in Section
885 28-3A-21, and the applicant's compliance with this chapter and
886 the rules adopted thereunder, the board shall issue a limited
887 mixed spirit beverage expanded retail license to any person
888 who holds and possesses any of the following:

889 (1) A valid retail table wine license for on-premises
890 and off-premises consumption as provided for in Section
891 28-3A-14.

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

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

896 (4) A valid retail beer license for off-premises



consumption as provided for in Section 28-3A-17.

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

(c) The board shall retain all limited mixed spirit beverage expanded retail license fees collected. The board may use collected fees for regulatory and administrative purposes as determined by the board in its discretion, including for the purposes of occasional purchases by the board of mixed spirit beverages to ensure compliance with this chapter.

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

Section 8. Sections 28-3A-21 and 28-3A-23, Code of Alabama 1975, are amended to read as follows:

"§28-3A-21

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

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

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



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

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

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

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

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

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

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

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

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



953 ~~(9)~~ (12) Retail table wine license for off-premises
954 consumption, license fee of one hundred fifty dollars (\$150).

955 ~~(10)~~ (13) Retail table wine license for on-premises and
956 off-premises consumption, license fee of one hundred fifty
957 dollars (\$150).

958 ~~(11)~~ (14) Retail beer license for on-premises and
959 off-premises consumption, license fee of one hundred fifty
960 dollars (\$150).

961 ~~(12)~~ (15) Retail beer license for off-premises
962 consumption, license fee of one hundred fifty dollars (\$150).

963 ~~(13)~~ (16) Retail common carrier liquor license, license
964 fee of one hundred fifty dollars (\$150) for each railroad,
965 airline, bus line, ship line, vessel, or other common carrier
966 entity with a vehicle passenger capacity of at least 10
967 people.

968 ~~(14)~~ (17) Special retail license, license fee of one
969 hundred dollars (\$100) for 30 days or less; license fee of two
970 hundred fifty dollars (\$250) for more than 30 days.

971 ~~(15)~~ (18) Special events retail license, license fee of
972 one hundred fifty dollars (\$150).

973 (19) Mixed spirit beverage expanded retail license,
974 license fee of five hundred dollars (\$500).

975 (20) Educational tourism distillery license, license
976 fee of one thousand dollars (\$1,000).

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

979 (c) In addition to the foregoing filing fee and license
980 taxes or fees, any county or municipality in which the sale of



alcoholic beverages is permitted ~~shall be authorized to~~may fix and levy privileges or license taxes on any of the foregoing licenses located or operated therein, conditioned on a permit or license being issued by the board.

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

"§28-3A-23

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

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

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

(2) An applicant shall provide the board with two complete functional sets of fingerprints, either cards or



electronic, properly executed by a criminal justice agency or an individual properly trained in fingerprinting techniques. The fingerprints and form shall be submitted by the board to the State Bureau of ~~Investigations~~Investigation of the Alabama State Law Enforcement Agency for the purposes of furnishing criminal background checks. The State Bureau of ~~Investigations~~Investigation shall forward a copy of the applicant's prints to the Federal Bureau of Investigation for a national criminal background check. The applicant shall pay all costs associated with the background checks required by this section.

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

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

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

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



outside the limits of the municipality, before the board shall have authority to grant the license.

(f) Any retailer may be granted licenses to maintain, operate, or conduct any number of places for the sale of alcoholic beverages, but a separate license must be secured for each place where alcoholic beverages are sold. No retail license issued under this title shall be used for more than one premises, nor for separate types of operation on the same premises. Provided, however, any such licensed retail operation existing on May 14, 2009, and operating based on dual licenses, both a club or lounge license and a restaurant license, on the same premises shall be exempt from the requirement of the preceding sentence and may continue to operate under the dual licenses. Any rule adopted by the board relating to the requirements concerning dual licenses, both a club or lounge license and a restaurant license, shall not apply to any retail operation existing on May 14, 2009. The rules shall include, but not be limited to, the maintenance of separate books, separate entrances, and separate inventories. Each premises must have a separate retail license. Where more than one retail operation is located within the same building, each operation under a separate or different ownership is required to obtain a separate retail license; and where more than one type of retail operation located within the same building is operated by the same licensee, the licensee must have a license for each type of retail operation. Provided, there shall be no licenses issued by the board for the sale of liquor, beer, or wine by rolling stores.



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

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

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



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

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

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

(l) Licenses issued under this title may not be assigned. The board may transfer any license from one person



1121 to another, or from one place to another within the same
1122 governing jurisdiction, or both, as the board may determine;
1123 but no transfers shall be made to a person who would not have
1124 been eligible to receive the license originally, nor for the
1125 transaction of business at a place for which the license could
1126 not originally have been issued lawfully.

1127 (m) Every applicant for a transfer of a license shall
1128 file a written application with the board within such time as
1129 the board shall fix in its rules. Whenever any license is
1130 transferred, there shall be collected a filing fee of fifty
1131 dollars (\$50), to be paid to the board, and the board shall
1132 pay the fee into the State Treasury to the credit of the Beer
1133 Tax and License Fund of the board.

1134 (n) In the event that any person to whom a license has
1135 been issued under the terms of this title becomes insolvent,
1136 makes an assignment for the benefit of creditors, or is
1137 adjudicated as bankrupt by either voluntary or involuntary
1138 action, the license of the person shall immediately terminate
1139 and be ~~canceled~~canceled without any action on the part of the
1140 board, and there shall be no refund made, or credit given, for
1141 the unused portion of the license fee for the remainder of the
1142 license year for which the license was granted. Thereafter, no
1143 license shall be issued by the board for the premises, wherein
1144 the license was conducted, to any assignee, committee,
1145 trustee, receiver, or successor of the licensee until a
1146 hearing has been held by the board as in the case of a new
1147 application for license. In all such cases, the board shall
1148 have the sole and final discretion as to the propriety of the



issuance of a license for the premises, the time it shall issue, and the period for which it shall be issued, and shall have the further power to impose conditions under which the licensed premises shall be conducted."

Section 9. Sections 28-3A-1.5, 28-3A-11, 28-3A-12, 28-3A-13, 28-3A-17.2, 28-3A-18, 28-3A-19, 28-3A-19.1, and 28-3A-20, Code of Alabama 1975, are amended to read as follows:

"§28-3A-1.5

(a) Definitions.

As used in this section and Section 28-3A-6, the following words ~~shall~~ have the following meanings:

(1) NONPROFIT SPECIAL EVENTS RETAIL LICENSE. A license issued pursuant to subsection (b) for the sale of beer, wine, mixed spirit beverages, or liquor.

(2) QUALIFYING ORGANIZATION. A bona fide nonprofit organization operating in the state that satisfies all of the following requirements:

a. Operates without profit to the organization's members.

b. Is exempt from taxation under ~~Section 501 of the Internal Revenue Code~~ 26 U.S.C. § 501.

c. Satisfies at least one of the following requirements:

1. Has been continuously in existence in the state for a minimum of three years.

2. Is affiliated with a parent organization that has been in existence in the state for a minimum of three years.



1177 3. Has reorganized and is continuing its mission under
1178 a new name on file with the Secretary of State and with a new
1179 tax identification number after having satisfied the
1180 requirements set forth in either subparagraph 1. or 2.

1181 (b) Licensed authorized.

1182 The board may issue a ~~Nonprofit Special Events Retail~~
1183 ~~License~~ nonprofit special events retail license for the sale
1184 of beer, wine, mixed spirit beverages, and liquor to a
1185 qualifying organization.

1186 (c) Applications for nonprofit special events retail
1187 license.

1188 (1) Applications for a nonprofit special events retail
1189 license shall be made with the board at least 25 calendar days
1190 prior to the event on forms provided by the board and shall be
1191 verified by oath or affirmation of an officer or director of
1192 the qualifying organization who is authorized to do so.

1193 (2) The applicant shall provide the board all of the
1194 following:

1195 a. Documentation to show that the nonprofit is a
1196 qualifying organization.

1197 b. A notarized, signed statement of proper authority
1198 from the person signing the application.

1199 c. Date, time, and address of the event location. The
1200 applicant may also include an alternate event date or
1201 location.

1202 d. Documentation of authority for use of property for
1203 the requested event.

1204 e. A copy of the letter notifying the local governing



1205 officials of the event.

1206 (3) A qualifying organization that applies for a
1207 nonprofit special events retail license shall not be required
1208 to provide evidence of liquor liability insurance.

1209 (4) The board may request additional documentation at
1210 its discretion.

1211 (5) Nonprofit special event retail licenses are not
1212 renewable and are valid for a period not to exceed seven days,
1213 and are issued upon terms and conditions as the board may
1214 prescribe.

1215 (d) Donated alcohol.

1216 Beer, wine, mixed spirit beverages, and liquor may be
1217 donated by a nonlicensed person.

1218 (e) Rulemaking authority.

1219 The board may adopt rules necessary for the
1220 implementation and administration of this section and Section
1221 28-3A-6."

1222 "§28-3A-11

1223 Upon applicant's compliance with the provisions of this
1224 chapter and the regulations made thereunder, the board ~~shall~~,
1225 where the application is accompanied by a certificate from the
1226 clerk or proper officer setting out that the applicant has
1227 presented his or her application to the governing authority of
1228 the municipality, if the licensed premises is to be located
1229 therein, and has obtained its consent and approval, shall
1230 issue a retail liquor license which will authorize the
1231 licensee to purchase liquor and wine from the board or as
1232 authorized by the board and to purchase table wine, mixed



spirit beverages, and beer, including draft or keg beer in any county or municipality in which the sale thereof is permitted, from any wholesaler licensee of the board and to sell at retail liquor and wine, dispensed from containers of any size, mixed spirit beverages in containers not to exceed 16 ounces, and beer, including draft or keg beer in any county or municipality in which the sale thereof is permitted, to patrons. A lounge liquor licensee may permit dancing or provide other lawful entertainment on the licensed premises. No person under 19 years of age shall be admitted on the premises of any lounge liquor licensee as a patron or employee, and it shall be unlawful for any such licensee to admit any minor to the premises as a patron or employee."

"§28-3A-12

Upon applicant's compliance with the provisions of this chapter and the regulations made thereunder, the board ~~may~~, where the application is accompanied by a certificate from the clerk or proper officers setting out that the applicant has presented his or her application to the governing authority of the municipality, if the licensed premises is to be located therein, and has obtained its consent and approval, may issue a club liquor license for a club which will authorize the licensee to purchase liquor and wine from the board or as authorized by the board and to purchase table wine, mixed spirit beverages, and beer, including draft or keg beer in any county or municipality in which the sale thereof is permitted, from any wholesale licensee of the board and to sell liquor and wine, dispensed from containers of any size, mixed spirit



1261 beverages in containers not to exceed 16 ounces, and beer,
1262 including draft or keg beer, in any county or municipality in
1263 which the sale thereof is permitted, to the members of the
1264 club or their guests for on-premises consumption and to sell
1265 all of the above for off-premises consumption except on
1266 Sunday."

1267 "§28-3A-13

1268 (a) Upon applicant's compliance with this chapter and
1269 the rules adopted thereunder, the board shall, where the
1270 application is accompanied by a certificate from the clerk or
1271 proper officer setting out that the applicant has presented
1272 his or her application to the governing authority of the
1273 municipality, if the licensed premises is to be located
1274 therein, and has obtained its consent and approval issue a
1275 restaurant liquor license for a hotel, restaurant, civic
1276 center authority, or dinner theater which will authorize the
1277 licensee to purchase liquor and wine from the board or as
1278 authorized by the board and to purchase table wine, mixed
1279 spirit beverages, and beer, including draft or keg beer, in
1280 any county or municipality in which the sale thereof is
1281 permitted, from any wholesale licensee of the board and, in
1282 that part of the hotel, restaurant, club, or dinner theater
1283 set out in the license, to sell liquor and wine, dispensed
1284 from containers of any size, mixed spirit beverages in
1285 containers not to exceed 16 ounces, and beer, including draft
1286 or keg beer, in any county or municipality in which the sale
1287 thereof is permitted, to the patrons, guests, or members for
1288 on-premises consumption in any part of the civic center or in



that part of the hotel, restaurant, or dinner theater habitually used for serving meals to patrons, guests, or members, or other public or private rooms of the building in accordance with this chapter and the rules adopted thereunder, and where a restaurant located in a hotel, but not operated by the owner of the hotel, is licensed to sell alcoholic beverages in the restaurant, it may also sell alcoholic beverages to guests in private rooms in the hotel.

(b) In accordance with Section 28-3A-13.1, a restaurant retail liquor licensee licensed to sell beer, wine, mixed spirit beverages, or spirits for on-premises consumption may apply for and be issued a delivery service license that authorizes the licensee to deliver, along with the purchase of a meal, beer, wine, mixed spirit beverages, or spirits from the retailer's premises."

"§28-3A-17.2

(a) As used in this section, "food or beverage truck" means a fully encased food or beverage service establishment approved by the Department of Public Health, which is housed on a motor vehicle or on a trailer that a motor vehicle pulls to transport, and from which a vendor, standing within the frame of the vehicle, prepares, cooks, sells, or serves food or beverages, or both, for immediate human consumption. The term does not include a food or beverage cart that is not motorized.

(b) (1) Upon a food or beverage truck applicant's compliance with this chapter and any rules adopted thereunder, and upon presentation of the certificate described in



subdivision (2), the board shall issue to the applicant a food or beverage truck license that will authorize the licensee to purchase liquor and wine from the board or, as authorized by the board, table wine, mixed spirit beverages, and beer, including draft or keg beer, from any wholesale licensee of the board and to sell alcoholic beverages for on-premises consumption to guests who may consume the beverages in open containers anywhere within an area designated by the municipal governing body within an established entertainment district, provided the license is not prohibited by a valid ordinance or other ordinance in the valid exercise of police power by the governing body of the municipality in which the food or beverage truck is located.

(2) An applicant shall obtain from the municipality in which the food or beverage truck intends to operate a certificate setting out that the applicant has presented his or her application to the governing body of the municipality and the municipality approves of the issuance of the license for the food or beverage truck to sell alcoholic beverages.

(c) The food or beverage truck license fee shall be three hundred dollars (\$300).

(d) A food or beverage truck operating outside the designated entertainment district may not sell alcoholic beverages.

(e) A food or beverage truck licensee shall consent, in writing, to warrantless inspections by city, county, and state inspectors and law enforcement.

(f) A food or beverage truck licensee must comply with



1345 all on-premises rules, other than the requirement for seating
1346 and restrooms.

1347 (g) Each food or beverage truck licensee shall collect
1348 and remit all state and local sales and use taxes and all
1349 excise and privilege taxes due on the sale of alcoholic
1350 beverages.

1351 (h) A food or beverage truck licensee may not serve or
1352 be authorized to serve any food or beverage within 150 feet of
1353 any entrance to any permanent restaurant or to any Alcoholic
1354 Beverage Control Board licensee.

1355 (i) The board, by rule, may require security cameras in
1356 all licensed food or beverage trucks and may require a barrier
1357 be placed as a boundary around the vicinity of the food or
1358 beverage truck or group of food or beverage trucks within
1359 which consumption of alcoholic beverages is permitted. The
1360 board shall adopt additional reasonable rules to protect
1361 public health and safety."

1362 "§28-3A-18

1363 Upon applicant's compliance with the provisions of this
1364 chapter and the regulations made thereunder, the board shall
1365 issue a retail common carrier liquor license for a railroad,
1366 airline, bus line, ship line, vessel, or other common carrier
1367 entity operating passenger vehicles with a passenger seating
1368 capacity of at least 10 people, which will authorize the
1369 licensee to sell, whenever operated in Alabama, alcoholic
1370 beverages, liquor, mixed spirit beverages, wine, and beer,
1371 including draft beer, to passengers for consumption while
1372 aboard such licensee. No railroad, airline, bus line, ship



1373 line, vessel, or common carrier entity shall sell alcoholic
1374 beverages to passengers for consumption within this state
1375 without first obtaining a retail common carrier liquor license
1376 from the board.

1377 Sales within Alabama of alcoholic beverages by retail
1378 common carrier liquor licensees shall be made in accordance
1379 with and shall be subject to the provisions of this chapter
1380 and regulations ~~promulgated~~ adopted thereunder."

1381 "§28-3A-19

1382 Upon applicant's compliance with the provisions of this
1383 chapter and the regulations made thereunder, the board shall
1384 issue a special retail license in wet counties for a state
1385 park, racing commission, fair authority, airport authority, or
1386 civic center authority, or the franchises or concessionaire of
1387 such park, commission, or authority, and may, in its
1388 discretion, issue a special retail license to any other valid,
1389 responsible organization of good reputation for such period of
1390 time not to exceed one year and upon such terms and conditions
1391 as the board shall prescribe, which will authorize the
1392 licensee to purchase, where the retail sale thereof is
1393 authorized by the board, liquor and wine from the board or as
1394 authorized by the board and table wine, mixed spirit
1395 beverages, and beer from any wholesale licensee of the board
1396 and to sell at retail and dispense such alcoholic beverages as
1397 are authorized by the board at such locations authorized by
1398 the board upon such terms and conditions as prescribed by the
1399 board. Provided, however, no sale of alcoholic beverages shall
1400 be permitted on any Sunday after the hour of 2:00 A.M."



1401 "§28-3A-19.1

1402 (a) Upon compliance by an applicant with the provisions
1403 of this chapter, and the regulations made thereunder, the
1404 Alcoholic Beverage Control Board may, where the application is
1405 accompanied by a certificate from the clerk or proper officers
1406 setting out that the applicant has presented his or her
1407 application to the governing authority of the municipality if
1408 the licensed premises is to be located therein, or by a
1409 certificate from the clerk or proper officers of the county if
1410 the licensed premises is to be located within the county but
1411 outside the jurisdiction of a municipality, and that the
1412 applicant has obtained the consent and approval of the proper
1413 governing authority, issue an international motor speedway
1414 license for any international motor speedway in the state
1415 which marketed at least 60,000 tickets to at least two motor
1416 sport racing events at the speedway in 1994, 1995, and 1996.
1417 Notwithstanding the provisions of ~~subdivisions (20) and (21)~~
1418 ~~of subsection (a) of Section 28-3A-25~~ Section 28-3A-25(a) (20)
1419 and (21), the international motor speedway license shall
1420 authorize the licensee to purchase liquor and wine from the
1421 board, or as authorized by the board, and to purchase table
1422 wine, mixed spirit beverages, and beer, in any county or
1423 municipality in which the sale thereof is permitted, from any
1424 wholesale licensee of the board and to sell liquor and wine,
1425 dispensed from containers of any size, mixed spirit beverages
1426 in containers not to exceed 16 ounces, and beer in any county
1427 or municipality in which the sale thereof is permitted, for
1428 on-premises consumption each day of the week, including



1429 Sundays, and to sell all of the aforementioned for
1430 off-premises consumption except on Sunday. Such sales shall be
1431 incidental to the primary purpose of recreation and athletics,
1432 and shall be confined to those buildings, facilities, and
1433 grounds which comprise the speedway.

1434 (b) An annual license fee of three hundred dollars
1435 (\$300) is levied and prescribed for an international motor
1436 speedway license issued and renewed by the board pursuant to
1437 the authority contained in this section and this chapter."

1438 "\$28-3A-20

1439 Upon applicant's compliance with this chapter and the
1440 regulations made thereunder, and upon application made on a
1441 form provided by the board at least 25 days in advance of the
1442 event for which a license is granted, the board shall issue a
1443 special events license for a valid, responsible organization
1444 of good reputation, for a period not to exceed seven days, and
1445 upon such terms and conditions as the board may prescribe. The
1446 license shall authorize the licensee to purchase, where the
1447 retail sale thereof is authorized by the board, liquor and
1448 wine from the board or as authorized by the board and table
1449 wine, mixed spirit beverages, and beer from any wholesale
1450 licensee of the board and to sell at retail and dispense such
1451 alcoholic beverages as are authorized by the board to the
1452 patrons, guests, or members of the organization at such
1453 locations or areas as shall be authorized by the board upon
1454 such terms and conditions as prescribed by the board. No sale
1455 of alcoholic beverages shall be permitted on any Sunday after
1456 the hour of 2:00 ~~A.M~~ a.m."



Section 10. Chapter 8B, commencing with Section 28-8B-1, is added to Title 28 of the Code of Alabama 1975, to read as follows:

§28-8B-1

(a) The Legislature hereby finds and declares that this chapter is enacted pursuant to the authority granted to the state under the Twenty-First Amendment to the United States Constitution, the powers reserved to the state under the Tenth Amendment to the United States Constitution, and the inherent powers of the state under the Constitution of Alabama of 2022, in order to regulate the traffic of alcoholic beverages and to substitute the regulations and oversight established in this act for the application of federal and state antitrust laws that otherwise would apply to any potential anti-competitive effects of this title. For the avoidance of doubt, the intent of the Legislature is to maintain the uniform three-tier system of control over the sale, purchase, taxation, transportation, manufacture, consumption, and possession of alcoholic beverages in the state to promote the health, safety, and welfare of residents of this state by, among other purposes, ensuring the state shall be able to register, audit, inspect, seize, recall, and test alcoholic beverages shipped into, distributed, and sold throughout this state; and this expression of the policy and intent of the Legislature is intended to satisfy the clear articulation test for state action immunity as has been established by the United States Supreme Court in *California Retail Liquor Dealers Assn. v. Midcal Aluminum, Inc., et al.*



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

§28-8B-2

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

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

§28-8B-3

(a) Each supplier of mixed spirit beverages licensed by the board to sell its mixed spirit beverages within the State of Alabama shall sell its mixed spirit beverages only through wholesaler licensees of the board and shall grant in writing to each of its wholesalers a distribution agreement which contains the wholesaler's exclusive sales territory for the distribution of the supplier's designated brand in accordance with Chapter 8.



1513 (b) A licensed retailer may not purchase mixed spirit
1514 beverages from any entity other than the licensed wholesaler
1515 designated by the manufacturer of the mixed spirit beverages.

1516 §28-8B-4

1517 (a) For the purposes of this chapter, the following
1518 terms have the following meanings:

1519 (1) DISTRIBUTION AGREEMENT. Any written and signed
1520 agreement between a wholesaler and a supplier, whereby a
1521 wholesaler is granted the right to purchase and sell a brand
1522 of mixed spirit beverages sold by a supplier.

1523 (2) FAIR MARKET VALUE. An amount equal to a multiple of
1524 the wholesaler's gross profit on the wholesaler's sales of the
1525 supplier's products in the 12-month period immediately
1526 preceding the date of the notice of termination or nonrenewal
1527 by supplier.

1528 (3) GOOD CAUSE. A material breach by the wholesaler of
1529 an essential element in a distribution agreement with a
1530 supplier which is uncured or which reoccurs three or more
1531 times.

1532 (4) GROSS PROFIT. The wholesaler's selling price, net
1533 of promotions, discounts, allowances, and freight, of the
1534 products sold during such 12-month period, less the
1535 wholesaler's cost to purchase the products from the supplier,
1536 net of any discounts, promotions, and allowances from
1537 supplier.

1538 (b) Upon a supplier's termination or nonrenewal of a
1539 distribution agreement with a wholesaler, except where
1540 termination or nonrenewal is for good cause, the supplier



shall pay the wholesaler reasonable compensation in an amount equal to the fair market value of the wholesaler's business attributable to the supplier's portfolio, including the value of the distribution rights, current saleable inventory, goodwill, and other relevant assets.

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

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

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

(3) If the independent appraisers' valuations are not within 10 percent of each other, a third independent appraiser



with experience in valuating alcoholic beverage distribution rights shall be retained by mutual agreement of the parties within 10 business days to assess the fair market value, and the fair market value shall be submitted in writing by the third independent appraiser within 30 days. The cost of the third independent appraiser shall be shared equally by the parties. The fair market value shall then be the average of: (i) the third independent appraiser's valuation; and (ii) the average of the first two valuations.

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

Section 11. If any provision of this act, or its application to any person or circumstance, is determined by a court to be invalid or unconstitutional, that provision shall be stricken and the remaining provisions shall be construed in accordance with the intent of the Legislature to further limit rather than expand commerce in alcoholic beverages, including by prohibiting any commerce in alcoholic beverages not expressly authorized, and to enhance strict regulatory control over taxation, distribution, and sale of alcoholic beverages through the existing uniform system of regulation of alcoholic beverages.

Section 12. This act shall become effective on October 1, 2025.