



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 Alcoholic Beverage Control Board stores, to be distributed through licensed wholesalers to licensed retailers for on-premises and off-premises 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.

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

A BILL  
TO BE ENTITLED  
AN ACT

Relating to alcoholic beverages; to amend Sections 28-3-1, 28-3A-3, 28-3A-21, and 28-3A-23, Code of Alabama 1975; to define a new category of low-alcohol content liquor beverages called mixed spirit beverages; to add Section 28-3-208 to the Code of Alabama 1975, to levy an excise tax upon the distribution of mixed spirit beverages; to add 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 set fees for the 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 28-1-9 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 2. 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



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

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

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

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

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

168         (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



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

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

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

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

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

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

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

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

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





225 fermented, or other alcoholic beverage, or combination of  
226 liquors and mixed liquor, a part of which is spirituous,  
227 fermented, vinous, or otherwise alcoholic, and all drinks or  
228 drinkable liquids, preparations, or mixtures intended for  
229 beverage purposes, which contain one-half of one percent or  
230 more of alcohol by volume, except beer, ~~and~~ table wine, and  
231 mixed spirit beverages.

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

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

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

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

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

252 (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



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

283 ~~(32)~~ (33) RETAILER. Any person licensed by the board to  
284 engage in the retail sale of any alcoholic beverages to the  
285 consumer.

286 ~~(33)~~ (34) SALE or SELL. Any transfer of liquor, wine, ~~or~~  
287 beer, or mixed spirit beverages for a consideration, and any  
288 gift in connection with, or as a part of, a transfer of  
289 property other than liquor, wine, ~~or~~ beer, or mixed spirit  
290 beverages for a consideration.

291 ~~(34)~~ (35) SELLING PRICE. The total marked-up price of  
292 spirituous or vinous liquors sold by the board, exclusive of  
293 taxes levied thereon.

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

301 ~~(36)~~ (37) UNOPENED CONTAINER. A container containing  
302 alcoholic beverages, which has not been opened or unsealed  
303 subsequent to filling and sealing by the manufacturer or  
304 importer.

305 ~~(37)~~ (38) WET COUNTY. Any county which by a majority of  
306 those voting voted in the affirmative in an election  
307 ~~heretofore~~ held in accordance with the statutes applicable at  
308 the time of the election or may hereafter vote in the



309 affirmative in an election or special method referendum held  
310 in accordance with Chapter 2, or other statutes applicable at  
311 the time of the election.

312 ~~(38)~~ (39) WET MUNICIPALITY. Any municipality in a dry  
313 county which by a majority of those voting voted in the  
314 affirmative in a municipal option election ~~heretofore or~~  
315 ~~hereafter~~ held in accordance with ~~the provisions of Act~~  
316 ~~84-408, Acts of Alabama 1984, appearing as~~ Chapter 2A of this  
317 title, ~~as amended,~~ or any act hereafter enacted permitting  
318 municipal option election, or any municipality which became  
319 wet by vote of the governing body or by the voters of the  
320 municipality ~~heretofore or hereafter~~ held under the special  
321 method referendum provisions of Section 28-2-22, or as  
322 hereafter provided, where the county has become dry subsequent  
323 to the elected wet status of the municipality.

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

333 ~~(40)~~ (41) WINE. All beverages made from the fermentation  
334 of fruits, berries, or grapes, with or without added spirits,  
335 and produced in accordance with the laws and regulations of  
336 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 3. 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 two and nine-tenths cents (\$.029) 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 two and nine-tenths cents (\$.029) 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



deposited in the State General Fund.

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

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

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

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

(f) Each county and municipality may fix a reasonable privilege or license fee on retail, importer, and wholesale licensees, for the purpose of covering the cost of



administration with respect to the sale of mixed spirit beverages, but not to generate revenue; provided, however, a county or municipality may not levy a license or privilege tax or other charge for the privilege of doing business as a mixed spirit beverages wholesaler, importer, or retailer which shall exceed one-half the amount of the state license fee.

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

"§28-3A-3

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

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

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

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

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

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





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

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

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

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

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

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

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

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

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

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

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

475           ~~(15)~~ q. To sell ~~any or all~~ alcoholic beverages at retail  
476 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.

~~(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 5. 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.

(4) Export mixed spirit beverages from the state.

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

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

(2) Notwithstanding this section, Section 28-3A-17.3, or Chapter 8B, the board shall retain the authority to act as a wholesaler of mixed spirit beverages, provided the board, as



a wholesaler, shall only distribute mixed spirit beverages to state liquor stores.

§28-3A-17.3

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

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

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

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

(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 6. 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).

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

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

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

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

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



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

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

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

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

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

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



757 manufacturer thereof to import and sell the brand or brands to  
758 be sold in this state, which authorization is on file with the  
759 board.

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

770 (l) Licenses issued under this title may not be  
771 assigned. The board may transfer any license from one person  
772 to another, or from one place to another within the same  
773 governing jurisdiction, or both, as the board may determine;  
774 but no transfers shall be made to a person who would not have  
775 been eligible to receive the license originally, nor for the  
776 transaction of business at a place for which the license could  
777 not originally have been issued lawfully.

778 (m) Every applicant for a transfer of a license shall  
779 file a written application with the board within such time as  
780 the board shall fix in its rules. Whenever any license is  
781 transferred, there shall be collected a filing fee of fifty  
782 dollars (\$50), to be paid to the board, and the board shall  
783 pay the fee into the State Treasury to the credit of the Beer  
784 Tax and License Fund of the board.



(n) In the event that any person to whom a license has been issued under the terms of this title becomes insolvent, makes an assignment for the benefit of creditors, or is adjudicated as bankrupt by either voluntary or involuntary action, the license of the person shall immediately terminate and be ~~cancelled~~canceled without any action on the part of the board, and there shall be no refund made, or credit given, for the unused portion of the license fee for the remainder of the license year for which the license was granted. Thereafter, no license shall be issued by the board for the premises, wherein the license was conducted, to any assignee, committee, trustee, receiver, or successor of the licensee until a hearing has been held by the board as in the case of a new application for license. In all such cases, the board shall 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 7. 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.

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

(b) Licensed authorized.

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

(c) Applications for nonprofit special events retail license.

(1) Applications for a nonprofit special events retail license shall be made with the board at least 25 calendar days



prior to the event on forms provided by the board and shall be verified by oath or affirmation of an officer or director of the qualifying organization who is authorized to do so.

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

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

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

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

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

e. A copy of the letter notifying the local governing officials of the event.

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

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

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

(d) Donated alcohol.

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



869 (e) Rulemaking authority.

870 The board may adopt rules necessary for the  
871 implementation and administration of this section and Section  
872 28-3A-6."

873 "§28-3A-11

874 Upon applicant's compliance with the provisions of this  
875 chapter and the regulations made thereunder, the board ~~shall~~,  
876 where the application is accompanied by a certificate from the  
877 clerk or proper officer setting out that the applicant has  
878 presented his or her application to the governing authority of  
879 the municipality, if the licensed premises is to be located  
880 therein, and has obtained its consent and approval, shall  
881 issue a retail liquor license which will authorize the  
882 licensee to purchase liquor and wine from the board or as  
883 authorized by the board and to purchase table wine, mixed  
884 spirit beverages, and beer, including draft or keg beer in any  
885 county or municipality in which the sale thereof is permitted,  
886 from any wholesaler licensee of the board and to sell at  
887 retail liquor and wine, dispensed from containers of any size,  
888 mixed spirit beverages in containers not to exceed 16 ounces,  
889 and beer, including draft or keg beer in any county or  
890 municipality in which the sale thereof is permitted, to  
891 patrons. A lounge liquor licensee may permit dancing or  
892 provide other lawful entertainment on the licensed premises.  
893 No person under 19 years of age shall be admitted on the  
894 premises of any lounge liquor licensee as a patron or  
895 employee, and it shall be unlawful for any such licensee to  
896 admit any minor to the premises as a patron or employee."





897               "§28-3A-12

898               Upon applicant's compliance with the provisions of this  
899 chapter and the regulations made thereunder, the board ~~may~~,  
900 where the application is accompanied by a certificate from the  
901 clerk or proper officers setting out that the applicant has  
902 presented his or her application to the governing authority of  
903 the municipality, if the licensed premises is to be located  
904 therein, and has obtained its consent and approval, may issue  
905 a club liquor license for a club which will authorize the  
906 licensee to purchase liquor and wine from the board or as  
907 authorized by the board and to purchase table wine, mixed  
908 spirit beverages, and beer, including draft or keg beer in any  
909 county or municipality in which the sale thereof is permitted,  
910 from any wholesale licensee of the board and to sell liquor  
911 and wine, dispensed from containers of any size, mixed spirit  
912 beverages in containers not to exceed 16 ounces, and beer,  
913 including draft or keg beer, in any county or municipality in  
914 which the sale thereof is permitted, to the members of the  
915 club or their guests for on-premises consumption and to sell  
916 all of the above for off-premises consumption except on  
917 Sunday."

918               "§28-3A-13

919               (a) Upon applicant's compliance with this chapter and  
920 the rules adopted thereunder, the board shall, where the  
921 application is accompanied by a certificate from the clerk or  
922 proper officer setting out that the applicant has presented  
923 his or her application to the governing authority of the  
924 municipality, if the licensed premises is to be located



therein, and has obtained its consent and approval issue a restaurant liquor license for a hotel, restaurant, civic center authority, or dinner theater 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, in that part of the hotel, restaurant, club, or dinner theater set out in the license, to sell 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 the patrons, guests, or members for 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.



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

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

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

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

995           (f) A food or beverage truck licensee must comply with  
996 all on-premises rules, other than the requirement for seating  
997 and restrooms.

998           (g) Each food or beverage truck licensee shall collect  
999 and remit all state and local sales and use taxes and all  
1000 excise and privilege taxes due on the sale of alcoholic  
1001 beverages.

1002           (h) A food or beverage truck licensee may not serve or  
1003 be authorized to serve any food or beverage within 150 feet of  
1004 any entrance to any permanent restaurant or to any Alcoholic  
1005 Beverage Control Board licensee.

1006           (i) The board, by rule, may require security cameras in  
1007 all licensed food or beverage trucks and may require a barrier  
1008 be placed as a boundary around the vicinity of the food or



1009 beverage truck or group of food or beverage trucks within  
1010 which consumption of alcoholic beverages is permitted. The  
1011 board shall adopt additional reasonable rules to protect  
1012 public health and safety."

1013 "§28-3A-18

1014 Upon applicant's compliance with the provisions of this  
1015 chapter and the regulations made thereunder, the board shall  
1016 issue a retail common carrier liquor license for a railroad,  
1017 airline, bus line, ship line, vessel, or other common carrier  
1018 entity operating passenger vehicles with a passenger seating  
1019 capacity of at least 10 people, which will authorize the  
1020 licensee to sell, whenever operated in Alabama, alcoholic  
1021 beverages, liquor, mixed spirit beverages, wine, and beer,  
1022 including draft beer, to passengers for consumption while  
1023 aboard such licensee. No railroad, airline, bus line, ship  
1024 line, vessel, or common carrier entity shall sell alcoholic  
1025 beverages to passengers for consumption within this state  
1026 without first obtaining a retail common carrier liquor license  
1027 from the board.

1028 Sales within Alabama of alcoholic beverages by retail  
1029 common carrier liquor licensees shall be made in accordance  
1030 with and shall be subject to the provisions of this chapter  
1031 and regulations ~~promulgated~~ adopted thereunder."

1032 "§28-3A-19

1033 Upon applicant's compliance with the provisions of this  
1034 chapter and the regulations made thereunder, the board shall  
1035 issue a special retail license in wet counties for a state  
1036 park, racing commission, fair authority, airport authority, or



civic center authority, or the franchises or concessionaire of such park, commission, or authority, and may, in its discretion, issue a special retail license to any other valid, responsible organization of good reputation for such period of time not to exceed one year and upon such terms and conditions as the board shall prescribe, which will authorize the licensee to purchase, where the retail sale thereof is authorized by the board, liquor and wine from the board or as authorized by the board and table wine, mixed spirit beverages, and beer from any wholesale licensee of the board and to sell at retail and dispense such alcoholic beverages as are authorized by the board at such locations authorized by the board upon such terms and conditions as prescribed by the board. Provided, however, no sale of alcoholic beverages shall be permitted on any Sunday after the hour of 2:00 A.M."

"§28-3A-19.1

(a) Upon compliance by an applicant with the provisions of this chapter, and the regulations made thereunder, the Alcoholic Beverage Control 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, or by a certificate from the clerk or proper officers of the county if the licensed premises is to be located within the county but outside the jurisdiction of a municipality, and that the applicant has obtained the consent and approval of the proper governing authority, issue an international motor speedway



license for any international motor speedway in the state which marketed at least 60,000 tickets to at least two motor sport racing events at the speedway in 1994, 1995, and 1996. Notwithstanding the provisions of ~~subdivisions (20) and (21) of subsection (a) of Section 28-3A-25~~ Section 28-3A-25(a) (20) and (21), the international motor speedway license shall 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, 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 beverages in containers not to exceed 16 ounces, and beer in any county or municipality in which the sale thereof is permitted, for on-premises consumption each day of the week, including Sundays, and to sell all of the aforementioned for off-premises consumption except on Sunday. Such sales shall be incidental to the primary purpose of recreation and athletics, and shall be confined to those buildings, facilities, and grounds which comprise the speedway.

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

"§28-3A-20

Upon applicant's compliance with this chapter and the regulations made thereunder, and upon application made on a form provided by the board at least 25 days in advance of the



event for which a license is granted, the board shall issue a special events license for a valid, responsible organization of good reputation, for a period not to exceed seven days, and upon such terms and conditions as the board may prescribe. The license shall authorize the licensee to purchase, where the retail sale thereof is authorized by the board, liquor and wine from the board or as authorized by the board and table wine, mixed spirit beverages, and beer from any wholesale licensee of the board and to sell at retail and dispense such alcoholic beverages as are authorized by the board to the patrons, guests, or members of the organization at such locations or areas as shall be authorized by the board upon such terms and conditions as prescribed by the board. No sale of alcoholic beverages shall be permitted on any Sunday after the hour of 2:00 ~~A.M~~ a.m."

Section 8. 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.

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

#### §28-8B-4

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

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

(2) FAIR MARKET VALUE. An amount equal to a multiple of the wholesaler's gross profit on the wholesaler's sales of the supplier's products in the 12-month period immediately



preceding the date of the notice of termination or nonrenewal by supplier.

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

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

(b) Upon a supplier's termination or nonrenewal of a distribution agreement with a wholesaler, except where 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 9. If any provision of this act, or its



1233 application to any person or circumstance, is determined by a  
1234 court to be invalid or unconstitutional, that provision shall  
1235 be stricken and the remaining provisions shall be construed in  
1236 accordance with the intent of the Legislature to further limit  
1237 rather than expand commerce in alcoholic beverages, including  
1238 by prohibiting any commerce in alcoholic beverages not  
1239 expressly authorized, and to enhance strict regulatory control  
1240 over taxation, distribution, and sale of alcoholic beverages  
1241 through the existing uniform system of regulation of alcoholic  
1242 beverages.

1243           Section 10. This act shall become effective on October  
1244 1, 2025.