SB259

48D4RRR-1

By Senator Singleton

RFD: Fiscal Responsibility and Economic Development

First Read: 21-Mar-24
SYNOPSIS:

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

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

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

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

This bill would set conditions and requirements for franchise agreements between suppliers and wholesale distributors of mixed spirit beverages, including provisions for the modification, termination,
SB259 INTRODUCED

cancellation, nonrenewal, or discontinuance of an agreement.

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

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

A BILL
TO BE ENTITLED
AN ACT

Relating to alcoholic beverages; to amend Sections 28-3-1, 28-3A-3, 28-3A-21, Code of Alabama 1975, and Section 28-3A-23, Code of Alabama 1975, as amended by Act 2023-312, 2023 Regular Session, and add Sections 28-3-208, 28-3A-9.1, and 28-3A-17.3 to the Code of Alabama 1975; to define a new category of low-alcohol content liquor beverages called mixed spirit beverages; to require all mixed spirit beverages, other than those distributed by the Alcoholic Beverage Control Board, to be distributed through a licensed wholesaler; to levy taxes upon the distribution of these beverages; to provide for licensure of retailers of mixed spirit beverages and set a fee for licensure; 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 franchise agreements with wholesalers; to exempt from the wholesaler franchise laws mixed spirit beverages distributed by the Alcoholic Beverage Control Board and sold at retail at ABC stores; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The Legislature hereby finds and declares that this act 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
The 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.

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.

(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 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 held in accordance with the provisions of Section 28-2-22, or in a municipal option election 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 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, 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, fermented, or other alcoholic beverage, or combination of liquors and mixed liquor, a part of which is spirituous,
fermented, vinous, 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, except beer and table wine.

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

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

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

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

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

(28) MIXED SPIRIT BEVERAGE. A single-serve beverage
containing liquor, packaged in a can or a container no larger
than 16 ounces approved by the board, and which contains no
more than 8 percent alcohol by volume. The term does not
include any beverage containing liquor over 16 ounces in size, or of more than 8 percent alcohol by volume.

(28)(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 term as applied to association shall mean the partners or members thereof and as applied to corporation shall mean the officers thereof, except as to incorporated clubs, the term person shall mean such means the 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
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.

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

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.

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

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

WET MUNICIPALITY. Any municipality in a dry
county which by a majority of those voting voted in the affirmative 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 of this title, as amended, or any act hereafter enacted permitting municipal option election, or any municipality which became wet by vote of the governing body or by the voters of the municipality heretofore or hereafter held under the special method referendum provisions of Section 28-2-22, or as hereafter provided, where the county has become dry subsequent to the elected wet status of the municipality.

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

(40)(41) WINE. All beverages made from the fermentation of fruits, berries, or grapes, with or without added spirits, and produced in accordance with the laws and regulations of 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 hereby 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. The tax shall be an amount equal to sixty-eight cents ($.68) per 12 fluid ounces 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 shall be collected from the retail purchasers. 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 retail purchaser. 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, which shall be filed by wholesale licensees as follows:
a. A monthly return shall be filed with the board on a form as prescribed or approved by the board by rule not later than the 15th day of the second month following the month of receipt of mixed spirit beverages by the wholesaler, showing receipts by the wholesaler from manufacturer, importer, or other wholesaler licensees during the month of receipt and the taxes due thereon at the rate of sixty-two cents ($0.62) per 12 fluid ounces or fractional part thereof of mixed spirit beverages purchased by the wholesaler licensee. The taxes due under this paragraph shall be remitted to the board along with the return.

b. A monthly return shall be filed 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 county or municipality in which sold and the taxes due thereon at the rate of six cents ($0.06) per 12 fluid ounces or fractional part thereof. The taxes due under this paragraph 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 may examine the books and records of any person 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 by subsection (b) shall be paid and distributed as follows:
SB259 INTRODUCED

(1) Forty-five cents ($0.45) per 12 fluid ounces or fractional part thereof of mixed spirit beverage taxes remitted by wholesalers to the board shall be deposited by the board to the State General Fund.

(2) Seven cents ($0.07) per 12 fluid ounces or fractional part thereof of mixed spirit beverage taxes remitted by wholesalers to the board shall be retained by the board for regulatory and administrative purposes.

(3) Ten cents ($0.10) per 12 fluid ounces or fractional part thereof of mixed spirit beverage taxes remitted by wholesalers to the board shall be remitted by wholesalers and divided equally between the board and the Alabama State Law Enforcement Agency to be retained by each for purposes of enforcement.

(4) Six cents ($0.06) per 12 fluid ounces or fractional part thereof of mixed spirit beverage taxes shall be remitted by wholesalers either into the treasury of the municipality in which the mixed spirit beverages were sold within its corporate limits or, where sold outside the corporate limits of any municipality, into the treasury of the county in which the mixed spirit beverages were sold. If the taxes are timely paid to the county or municipality, the tax due to the county or municipality shall be discounted by 1.7 percent, which discount shall be retained by the wholesaler for collecting the tax.

(d) The taxes levied pursuant to this section are 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, however, 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 taxes 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 hereby made exempt from the tax;
provided, however, the board may require written reporting of
any transaction in the form as the board by rule may
prescribe.

(f) Each county and municipality may fix a reasonable
privilege or license fee on retailer, importer, and wholesaler
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 beverage retailer, importer, or wholesaler which
exceeds 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.

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

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

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

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

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

(10) j. To sell table wine at retail for off-premises consumption.
(11) k. To sell table wine at retail for on-premises and off-premises consumption.

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

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

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.

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 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
SB259 INTRODUCED

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 beverage 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 an applicant 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 prepared for the market by the manufacturer.

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

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

§28-3A-17.3

(a) Upon payment of the limited mixed spirit beverage expanded retail license fee as established in Section 28-3A-21, 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
(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) Upon written request to the board and without payment of any additional fee, the board shall issue a limited mixed spirit beverage expanded retail license to any person who possesses any of the following:

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

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

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

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

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

(d) 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, including for the purposes of establishing and maintaining a cost of evidence fund to assist in regulatory functions of the board.
(e) 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 a municipality, a county, or the state for licensees for the sale of mixed spirit beverages.

Section 6. Sections 28-3A-21 and Section 28-3A-23, as last amended by Act 2023-312 of the 2023 Regular Session, 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 license, license fee of five hundred dollars ($500).

(4) Wholesaler—Beer wholesale 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 three hundred dollars ($300).
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) Limited mixed spirit beverage expanded retail license, license fee of three hundred dollars ($300).

(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 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 chapter shall be issued or renewed until the provisions of this title chapter 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 for the purposes of furnishing criminal background checks. The State Bureau of Investigations 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
shall include 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 chapter 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 chapter 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 chapter may not be assigned. The board may transfer any license from one person to another, or from one place to another within the same governing jurisdiction, or both, as the board may determine; but no transfers shall be made to a person who would not have been eligible to receive the license originally, nor for the transaction of business at a place for which the license could not originally have been issued lawfully.

(m) Every applicant for a transfer of a license shall file a written application with the board within such time as the board shall fix in its rules. Whenever any license is transferred, there shall be collected a filing fee of fifty dollars ($50), to be paid to the board, and the board shall pay the fee into the State Treasury to the credit of the Beer 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 chapter 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 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, including 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. Mixed spirit beverages, as defined in Section 28-3-1, Code of Alabama 1975, shall be marketed in a responsible and appropriate manner. The Alcoholic Beverage Control Board may exercise its discretion to deny labels it considers objectionable. All labels must conform to rules of the board regarding advertising, product placement, and package warning signage. The board, on a case-by-case basis, may require certain products, that as labeled, pose a risk of
may require certain products, that as labeled, pose a risk of misleading or deceiving the public to believe that the products are non-alcoholic products, to be sold only at liquor stores, as defined in Section 28-3-1, Code of Alabama 1975, or establishments that maintain a lounge retail liquor – Class I or Class II license.

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:

Chapter 8B

§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 chapter 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, among other purposes, by 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

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

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

(2) ANCILLARY BUSINESS. A business owned by a
wholesaler, or by a substantial partner of a wholesaler, the
primary business of which is directly related to the
transporting, storing, or marketing of the brand or brands of
mixed spirit beverages of a supplier with whom the wholesaler has an agreement; or a business owned by a wholesaler, a substantial stockholder of a wholesaler, or a substantial partner of a wholesaler that recycles empty beverage containers.

(3) DESIGNATED MEMBER. The spouse, child, grandchild, parent, brother, or sister of a deceased individual who owned an interest, including a controlling interest, in a wholesaler; or any person who inherits the deceased individual's ownership interest in the wholesaler under the terms of the deceased individual's will or under the laws of intestate succession of this state; or any person who or entity that has otherwise by designation in writing by the deceased individual succeeded the deceased individual in the wholesaler's business or has succeeded to the deceased individual's ownership interest in the wholesaler pursuant to a written contract or instrument; or the appointed and qualified personal representative and the testamentary trustee of a deceased individual having an ownership interest in a wholesaler. Designated member also includes a person appointed by the court as the guardian or conservator of the property of an incapacitated individual owning an ownership interest in a wholesaler.

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

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

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

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

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

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

(10) TRANSFER OF WHOLESALER'S BUSINESS. The voluntary sale, assignment, or other transfer of all or control of the business, or all or substantially all of the assets of the wholesaler, or all or control of the capital stock of the wholesaler, including, without limitation, the sale or other transfer of capital stock or assets by merger, consolidation,
or dissolution, or of the capital stock of the parent corporation, or of the capital stock or beneficial ownership of any other entity owning or controlling the wholesaler.

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

§28-8B-3
(a) This chapter does not apply to the 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 provide franchise regulation for mixed spirit beverages, and to leave in effect and unchanged any local or state franchise laws existing on January 1, 2025.
(c) Notwithstanding this chapter, including Section 28-8B-4, the board shall have the authority to purchase mixed spirit beverages directly from the manufacturer and sell these products to retail customers. This will maintain the anti-monopoly goals of the three-tier system. The board is exempt from the operation of this chapter or any other franchise law; provided, the board, as a wholesaler, shall only distribute mixed spirit beverages to liquor stores.

§28-8B-4
(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 an exclusive sales territory 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-5

A supplier shall not do any of the following:

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

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

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

(4) Coerce, or attempt to coerce, any wholesaler to accept delivery of any mixed spirit beverages or other
commodity which has not been ordered by the wholesaler.

Provided, however, a supplier may impose reasonable inventory
requirements upon a wholesaler if the requirements are made in
good faith and are generally applied to other similarly
situated wholesalers having an agreement with the supplier.

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

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

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

(8) Require a wholesaler to purchase one or more brands
of mixed spirit beverages or other products in order for the
wholesaler to purchase another brand or brands of mixed spirit
(9) Request a wholesaler to submit audited profit and loss statements, balance sheets, or financial records as a condition of renewal or continuation of an agreement.

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

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

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

(13) Require or prohibit, without just and reasonable cause, any change in the manager or successor manager of any wholesaler who has been approved by the supplier. Should a wholesaler change an approved manager or successor manager, a supplier shall not require or prohibit the change unless the person selected by the wholesaler fails to meet the nondiscriminatory, material, and reasonable standards and qualifications for managers of Alabama wholesalers of the supplier which previously have been consistently applied to Alabama wholesalers by the supplier. The supplier shall have the burden of proving that a person fails to meet the standards and qualifications which are nondiscriminatory, material, and reasonable and have been consistently applied to
Alabama wholesalers.

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

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

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

§28-8B-6

A wholesaler shall not do any of the following:

(1) Fail to devote reasonable efforts and resources, within its supplier-designated sales territory, to the sale and distribution of all of the supplier's brands of mixed spirit beverages which the wholesaler has been granted the right to sell or distribute.
(2) a. Except as provided in paragraph b., sell or deliver mixed spirit beverages to a retail licensee located outside the sales territory designated to the wholesaler by the supplier of a particular brand or brands of mixed spirit beverages.

b. Notwithstanding paragraph a., during periods of temporary service interruptions impacting a particular sales territory, a wholesaler who normally services the impacted sales territory shall file with the board and give to the affected supplier written notice designating the specific licensed wholesaler or wholesalers, not disapproved by the supplier, who will service the sales territory during the period of temporary service interruption and the approximate length of time for the service interruption. Each wholesaler designated to temporarily service the sales territory shall be a wholesaler who has a current written agreement with the supplier for the brand or brands affected. When the temporary service interruption is over, the wholesaler who normally services the sales territory shall notify in writing the board, the supplier, and the wholesaler, or wholesalers, servicing the sales territory on a temporary basis of this fact, and any wholesaler servicing the sales territory on a temporary basis shall cease servicing the sales territory upon receipt of notice. A wholesaler who is designated to service the impacted sales territory during the period of temporary service shall not be in violation of this chapter and, with respect to the temporary service territory, shall not have any of the rights provided under Sections 28-8B-7 and 28-8B-9.
(3) a. Transfer the wholesaler's business without giving the supplier written notice of intent to transfer the wholesaler's business and, where required by this section, without receiving the supplier's approval for the proposed transfer.

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

§28-8B-7
(a) Notwithstanding any agreement and except as otherwise provided for in this chapter, a supplier shall not amend or modify an agreement; cause a wholesaler to resign from an agreement; or cancel, terminate, fail to renew, or refuse to continue under an agreement, unless, in any of the foregoing cases, the supplier has complied with all of the following:

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

(2) Has acted in good faith.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) The wholesaler intentionally ceases, or ceases for
more than a period of 61 days, to carry on business with
respect to any of the supplier's brand or brands previously
serviced by the wholesaler in its territory designated by the
supplier, unless the cessation is due to force majeure or to a
labor dispute and the wholesaler has made good faith efforts
to overcome such events. This subdivision shall affect only that brand or brands with respect to which the wholesaler ceased to carry on business.

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

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

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

§28-8B-8

(a) Upon written notice of intent to transfer the wholesaler's business, any individual owning, or deceased individual who owned, an interest in a wholesaler may transfer the wholesaler's business to a designated member or any other
person who meets the nondiscriminatory, material, and reasonable qualifications and standards required by the supplier for Alabama wholesalers. The consent or approval of the supplier shall not be required of any transfer of the wholesaler's business, including the assignment of wholesaler's rights under the agreement to a designated member, or shall not be withheld or unreasonably delayed to a proposed transferee, other than a designated member who meets the nondiscriminatory, material, and reasonable qualifications and standards. Provided, however, the supplier shall have the burden of proving that the proposed transferee fails to meet the qualifications and standards which are nondiscriminatory, material, and reasonable, and consistently applied to Alabama wholesalers by the supplier. Provided, the designated member or transferee shall in no event be qualified as a transferee without the prior written approval or consent of the supplier, where the proposed transferee shall have been involved in any of the following:

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

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

(3) Conviction of a felony under federal law or the laws of any state which reasonably may adversely affect the good will or interest of the wholesaler or supplier.

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

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

§28-8B-9

(a) Except as otherwise provided for in this chapter, a supplier that has amended, modified, cancelled, terminated, or refused to renew any agreement; or has caused a wholesaler to resign from any agreement; or has interfered with, prevented, or unreasonably delayed; or where required by this chapter, has withheld or unreasonably delayed consent to or approval of any assignment or transfer of a wholesaler's business shall pay the wholesaler reasonable compensation for the diminished value of the wholesaler's business, including any ancillary
business which has been negatively affected by the act of the supplier. The value of the wholesaler's business or ancillary business shall include, but not be limited to, any good will. Provided, however, nothing contained in this chapter shall give rise to a claim against the supplier or wholesaler by any proposed purchaser of the wholesaler's business.

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

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

(d) The matter of determining the amount of compensation, by agreement of the parties, may be submitted to a three-member arbitration panel consisting of one representative selected by the supplier but unassociated with the affected supplier; one wholesaler representative selected by the wholesaler but unassociated with the wholesaler; and an impartial arbitrator chosen as provided in this section.

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

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

(g) The cost of the impartial arbitrator, the
stenographer, and the meeting site shall be equally divided
between the wholesaler and the supplier. All other costs shall
be paid by the party incurring them.
(h) After both parties have agreed to arbitrate, should either party, except by mutual agreement, fail to abide by the time limitations as prescribed in subsections (c), (e), and (f), or fail or refuse to make the selection of any arbitrators, or fail to participate in the arbitration hearings, the other party shall make the selection of its arbitrator and proceed to arbitration. The party who has failed or refused to comply as prescribed in this section shall be considered to be in default. Any party considered to be in default pursuant to this subsection shall have waived any and all rights the party would have had in the arbitration and shall be considered to have consented to the determination of the arbitration panel.

§28-8B-10

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

(b) A transferee of a wholesaler that continues in business as a wholesaler shall have the benefit of and be bound by all terms and conditions of the agreement with the supplier in effect on the date of the transfer; provided, however, a transfer of a wholesaler's business which requires a supplier's consent or approval but is disapproved by the supplier shall be void.

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

§28-8B-11

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

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

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

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

(c)(1) This chapter imposes upon a supplier the duty to deal fairly and in good faith with a wholesaler that has entered into an agreement with the supplier to purchase and sell a brand or brands of mixed spirit beverages sold by the supplier. Except as otherwise provided in this chapter, a court may award exemplary or punitive damages, as well as actual damages, court costs, and reasonable attorney fees to a
wholesaler who has been damaged by the action or the failure
to act of a supplier if the court, upon proof thereof by clear
and convincing evidence as defined in Section 6-11-20, finds
that a supplier has intentionally, consciously, or
deliberately acted in bad faith or failed to act in good faith
in any of the following:

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

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

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

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

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

(e) Upon proper application to the court, a supplier or
wholesaler may obtain injunctive relief against any violation
of this chapter. If the court grants injunctive relief or
issues a temporary restraining order, bond shall not be
required to be posted.

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

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

Section 9. 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 10. This act shall become effective January 1, 2025.