

1 HB101
2 125466-1
3 By Representative Jones
4 RFD: Economic Development and Tourism
5 First Read: 07-FEB-12
6 PFD: 02/02/2012

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, a licensee of the
9 Alcoholic Beverage Control Board, or the servant,
10 agent, or employee of a licensee of the Alcoholic
11 Beverage Control Board, is prohibited from being
12 employed by any other licensee engaged in the
13 manufacture, storage, transportation, or sale of
14 alcoholic beverages.

15 This bill would delete that prohibition.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT

20
21 To amend Section 28-3A-25, Code of Alabama 1975,
22 relating to unlawful acts and offenses under the alcoholic
23 beverage licensing code, to delete the prohibition against any
24 licensee of the Alcoholic Beverage Control Board, or the
25 servant, agent, or employee of a licensee, from being employed
26 by any other licensee engaged in the manufacture, storage,
27 transportation, or sale of alcoholic beverages.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 28-3A-25 of the Code of Alabama
3 1975, is amended to read as follows:

4 "§28-3A-25.

5 "(a) It shall be unlawful:

6 "(1) For any manufacturer, importer, or wholesaler,
7 or the servants, agents, or employees of the same, to sell,
8 trade, or barter in alcoholic beverages between the hours of
9 nine o'clock P.M. of any Saturday and two o'clock A.M. of the
10 following Monday.

11 "(2) For any wholesaler or the servants, agents, or
12 employees of the wholesaler to sell alcoholic beverages, to
13 other than wholesale or retail licensees or others within this
14 state lawfully authorized to sell alcoholic beverages, or to
15 sell for export.

16 "(3) For any person, licensee, or the board either
17 directly or by the servants, agents, or employees of the same,
18 or for any servant, agent, or employee of the same, to sell,
19 deliver, furnish, or give away alcoholic beverages to any
20 person under the legal drinking age, as defined in Section
21 28-1-5, or to permit any person under the legal drinking age,
22 as defined in Section 28-1-5, to drink, consume, or possess
23 any alcoholic beverages on any licensee's premises.

24 "(4) For any person to consume alcoholic beverages
25 on the premises of any state liquor store or any off-premises
26 licensee, or to allow alcoholic beverages to be consumed on

1 the premises of any state liquor store or any off-premises
2 licensee.

3 "(5) For any licensee to fail to keep for a period
4 of at least three years, complete and truthful records
5 covering the operation of his or her license and particularly
6 showing the date of all purchases of alcoholic beverages, the
7 actual price paid therefor, and the name of the vendor, or to
8 refuse the board or any authorized employee of the board
9 access to the records or the opportunity to make copies of the
10 records when the request is made during business hours.

11 "(6) For any licensee or the servants, agents, or
12 employees of the same to refuse the board, any of its
13 authorized employees, or any duly commissioned law enforcement
14 officer the right to completely inspect the entire licensed
15 premises at any time the premises are open for business.

16 "~~(7) For any licensee or the servants, agents, or~~
17 ~~employees of the same to be directly or indirectly employed by~~
18 ~~any other licensee engaged in the manufacture, storage,~~
19 ~~transportation, or sale of alcoholic beverages.~~

20 "(7)~~(8)~~ For any person to knowingly sell any
21 alcoholic beverages to any person engaged in the business of
22 illegally selling alcoholic beverages.

23 "(8)~~(9)~~ For any person to manufacture, transport, or
24 import alcoholic beverages into this state, except in
25 accordance with the reasonable rules and regulations of the
26 board. This subdivision shall not prohibit the transportation
27 of alcoholic beverages through the state or any dry county so

1 long as the beverages are not for delivery therein, if the
2 transportation is done in accordance with the reasonable rules
3 and regulations of the board.

4 "(9)~~(10)~~ For any person to fortify, adulterate,
5 contaminate, or in any manner change the character or purity
6 of alcoholic beverages from that as originally marketed by the
7 manufacturer, except that a retail licensee on order from a
8 customer may mix a chaser or other ingredients necessary to
9 prepare a cocktail or mixed drink for on-premises consumption.

10 "(10)~~(11)~~ For any person licensed to sell alcoholic
11 beverages to offer to give any thing of value as a premium for
12 the return of caps, stoppers, corks, stamps, or labels taken
13 from any bottle, case, barrel, or package containing the
14 alcoholic beverages, or to offer to give any thing of value as
15 a premium or present to induce the purchase of the alcoholic
16 beverages, or for any other purpose whatsoever in connection
17 with the sale of the alcoholic beverages. This subdivision
18 shall not apply to the return of any moneys specifically
19 deposited for the return of the original containers to the
20 owners of the containers.

21 "(11)~~(12)~~ For any licensee or transporter for hire,
22 servant, agent, or employee of the same, to transport any
23 alcoholic beverages except in the original container, and for
24 any transporter for hire to transport any alcoholic beverages
25 within the state, unless the transporter holds a permit issued
26 by the board.

1 "(12)~~(13)~~ For any manufacturer, importer, or
2 wholesaler, servant, agent, or employee of the same, to
3 deliver any alcoholic beverages, except in vehicles bearing
4 such information on each side of the vehicle as required by
5 the board.

6 "(13)~~(14)~~ For any person to sell alcoholic beverages
7 within any dry county or county where the electors have voted
8 against the sales, except in wet municipalities or as
9 authorized by Section 28-3A-18.

10 "(14)~~(15)~~ For any person, firm, corporation,
11 partnership, or association of persons as the terms are
12 defined in Section 28-3-1, including any civic center
13 authority, racing commission, fair authority, airport
14 authority, public or quasi-public board, agency, or
15 commission, any agent thereof, or otherwise, who or which has
16 not been properly licensed under the appropriate provisions of
17 this chapter to sell, offer for sale, or have in possession
18 for sale, any alcoholic beverages. Any alcoholic beverages so
19 possessed, maintained, or kept shall be contraband and subject
20 to condemnation and confiscation as provided by law.

21 "(15)~~(16)~~ For any manufacturer, distiller, producer,
22 importer, or distributor of alcoholic beverages to employ and
23 maintain any person, who is not a full-time bona fide
24 employee, as a resident sales agent, broker, or other like
25 representative, for the purpose of promoting a sale, purchase,
26 or acquisition of alcoholic beverages to or by the state or
27 the board, or for any person who is not a full-time bona fide

1 employee to act as an agent, broker, or representative of any
2 manufacturer, distributor, producer, importer, or distiller
3 for that purpose.

4 "~~(16)(17)~~ For any person to sell, give away, or
5 otherwise dispose of taxable alcoholic beverages within this
6 state on which the required taxes have not been paid as
7 required by law.

8 "~~(17)(18)~~ For any wholesaler or retailer, or the
9 servant, agent, or employee of the same, to sell, distribute,
10 deliver, or to receive or store for sale or distribution
11 within this state any alcoholic beverages unless there first
12 has been issued by the board a manufacturer's license to the
13 manufacturer of the alcoholic beverages or its designated
14 representative or an importer license to the importer of the
15 alcoholic beverages.

16 "~~(18)(19)~~ For any person under the legal drinking
17 age, as defined in Section 28-1-5, to attempt to purchase, to
18 purchase, consume, possess, or to transport any alcoholic
19 beverages within the state; provided, however, it shall not be
20 unlawful for a person under the legal drinking age, as defined
21 in Section 28-1-5, to be an employee of a wholesale licensee
22 or an off-premises retail licensee of the board to handle,
23 transport, or sell any beer or table wine if the person under
24 the legal drinking age is acting within the line and scope of
25 his or her employment while so acting. There must be an adult
26 licensee, servant, agent, or employee of the same present at
27 all times a licensed establishment is open for business.

1 "(19)~~(20)~~ For any person, except where authorized by
2 a local act or general act of local application, to buy, give
3 away, sell, or serve for consumption on or off the premises,
4 or to drink or consume any alcoholic beverages in any cafe,
5 lunchroom, restaurant, hotel dining room, or other public
6 place on Sunday after the hour of two o'clock A.M.

7 "(20)~~(21)~~ Except where authorized by a local act or
8 general act of local application, for the proprietor, keeper,
9 or operator of any cafe, lunchroom, restaurant, hotel dining
10 room, or other public place to knowingly permit any person to
11 give away, sell, or serve for consumption on or off the
12 premises, or to drink or consume any alcoholic beverages on
13 the premises of the cafe, lunchroom, restaurant, hotel dining
14 room, or other public place on Sunday after the hour of two
15 o'clock A.M.

16 "(21)~~(22)~~ For a person under the age of 21 years to
17 knowingly use or attempt to use a false, forged, deceptive, or
18 otherwise nongenuine driver's license to obtain or attempt to
19 obtain alcoholic beverages within this state.

20 "(b) (1) Any violation of subdivisions (1) through
21 ~~(18)~~ (17) of subsection (a) ~~of this section~~ shall be a
22 misdemeanor punishable by a fine of not less than one hundred
23 dollars (\$100) nor more than one thousand dollars (\$1,000), to
24 which, at the discretion of the court or judge trying the
25 case, may be added imprisonment in the county jail or at hard
26 labor for the county for not more than six months for the
27 first conviction; and, on the second conviction of a violation

1 of the subdivisions, the offense shall, in addition to the
2 aforementioned fine, be punishable by imprisonment or at hard
3 labor for the county for not less than three months nor more
4 than six months to be imposed by the court or judge trying the
5 case; and, on the third conviction and every subsequent
6 conviction of a violation of the subdivisions, the offense
7 shall, in addition to a fine within the limits abovenamed, be
8 punishable by imprisonment or at hard labor for the county for
9 not less than six months nor more than 12 months.

10 "(2) Any violation of any provision of subdivisions
11 ~~(19), (20), (21), and (22)~~ (18), (19), (20), and (21) of
12 subsection (a) ~~of this section~~ shall be a misdemeanor
13 punishable by a fine of not less than fifty dollars (\$50) nor
14 more than five hundred dollars (\$500), to which, at the
15 discretion of the court or judge trying the case, may be added
16 imprisonment in the county jail or at hard labor for the
17 county for not more than three months.

18 "(c) In addition to the penalties otherwise provided
19 for a violation of subdivisions ~~(19) and (22)~~ (18) and (21) of
20 subsection (a) ~~of this section~~, upon conviction, including
21 convictions in juvenile court or under the Youthful Offender
22 Act, the offender's license to operate a motor vehicle in this
23 state shall be surrendered by the offender to the judge
24 adjudicating the case for a period of not less than three
25 months nor more than six months. The judge shall forward a
26 copy of the order suspending the license to the Department of
27 Public Safety for enforcement purposes."

1 Section 2. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.