

1 SB315  
2 190163-1  
3 By Senator Whatley  
4 RFD: County and Municipal Government  
5 First Read: 13-FEB-18

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8 SYNOPSIS: The sale of alcoholic beverages on Sundays  
9 and the sale of draft or keg beer is only allowed  
10 in a wet county or wet municipality if authorized  
11 by local law.

12 This bill would authorize the county  
13 commission of a wet county, by resolution, to  
14 regulate and permit the sale of alcoholic beverages  
15 during certain hours on Sunday or the sale of draft  
16 or keg beer by properly licensed retail licensees.

17 This bill would also authorize the governing  
18 body of a wet municipality, by ordinance, to  
19 regulate and permit the sale of alcoholic beverages  
20 during certain hours on Sunday or the sale of draft  
21 or keg beer by properly licensed retail licensees.

22  
23 A BILL  
24 TO BE ENTITLED  
25 AN ACT  
26

1           To amend Sections 28-3A-23 and Section 28-3A-25,  
2 Code of Alabama 1975, relating to the sale of alcoholic  
3 beverages; to authorize the county commission of a wet county,  
4 by resolution, to regulate and permit the sale of alcoholic  
5 beverages on Sunday or the sale of draft or keg beer by  
6 properly licensed retail licensees; and to authorize the  
7 governing body of a wet municipality, by ordinance to regulate  
8 and permit the sale of alcoholic beverages on Sunday or the  
9 sale of draft or keg beer by properly licensed retail  
10 licensees.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12           Section 1. Sections 28-3A-23 and Section 28-3A-25,  
13 Code of Alabama 1975, are amended to read as follows:

14           "§28-3A-23.

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

19           "(b) Licenses shall be granted and issued by the  
20 board only to reputable individuals, to associations whose  
21 members are reputable individuals, or to reputable  
22 corporations organized under the laws of the State of Alabama  
23 or duly qualified thereunder to do business in Alabama, or, in  
24 the case of manufacturers, duly registered under the laws of  
25 Alabama, and then only when it appears that all officers and  
26 directors of the corporation are reputable individuals.

1           "(c) Every license issued under this code shall be  
2 constantly and conspicuously displayed on the licensed  
3 premises.

4           "(d) Each retail liquor license application must be  
5 approved by the governing authority of the municipality if the  
6 retailer is located in a municipality, or by the county  
7 commission if the retailer is located in the county and  
8 outside the limits of the municipality before the board shall  
9 have authority to grant the license.

10           "(e) Any retailer may be granted licenses to  
11 maintain, operate, or conduct any number of places for the  
12 sale of alcoholic beverages, but a separate license must be  
13 secured for each place where alcoholic beverages are sold. No  
14 retail license issued under this code shall be used for more  
15 than one premise, nor for separate types of operation on the  
16 same premise. Provided, however, any such licensed retail  
17 operation existing on May 14, 2009, and operating based on  
18 dual licenses, both a club or lounge license and a restaurant  
19 license, on the same premises shall be exempt from the  
20 requirement of the preceding sentence and may continue to  
21 operate under such dual licenses. The provisions of any rule  
22 promulgated by the board relating to the requirements  
23 concerning such dual licenses, both a club or lounge license  
24 and a restaurant license, shall not apply to any such retail  
25 operation existing on May 14, 2009. The aforementioned rules  
26 shall include, but not be limited to, the maintenance of  
27 separate books, separate entrances, and separate inventories.

1 Each premise must have a separate retail license. Where more  
2 than one retail operation is located within the same building,  
3 each such operation under a separate or different ownership is  
4 required to obtain a separate retail license; and where more  
5 than one type of retail operation located within the same  
6 building is operated by the same licensee, such licensee must  
7 have a license for each type of retail operation. Provided,  
8 there shall be no licenses issued by the board for the sale of  
9 liquor, beer or wine by rolling stores.

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

19 "(g) All beer, except draft or keg beer, sold by  
20 retailers must be sold or dispensed in bottles, cans, or other  
21 containers not to exceed 25.4 ounces. All wine sold by  
22 retailers for off-premise consumption must be sold or  
23 dispensed in bottles or other containers in accordance with  
24 the standards of fill specified in the then effective  
25 standards of fill for wine prescribed by the U.S. Treasury  
26 Department.

1           "(h) Draft or keg beer may be sold or dispensed  
2 within this state within those counties in which and in the  
3 manner in which the sale of draft or keg beer was authorized  
4 by law on September 30, 1980 or in which the sale of draft or  
5 keg beer is ~~hereafter~~ authorized by law and within a wet  
6 municipality in which the sale of draft or keg beer is  
7 authorized by law; ~~provided in rural communities with a~~  
8 ~~predominantly foreign population, after the payment of the tax~~  
9 ~~imposed by this title, draft or keg beer may be sold or~~  
10 ~~dispensed by special permit from the board, when, in the~~  
11 ~~judgment of the board, the use and consumption of draft or keg~~  
12 ~~beer is in accordance with the habit and customs of the people~~  
13 ~~of any such rural community; provided further, the board may,~~  
14 in its discretion, grant to any civic center authority or its  
15 franchisee or concessionaire, to which the board may have  
16 issued or may simultaneously issue a retail license under the  
17 provisions of this code, a revocable temporary permit to sell  
18 or dispense in any part of its civic center, for consumption  
19 therein, draft or keg beer. ~~Either such~~ The temporary permit  
20 shall be promptly revoked by the board if, in its judgment,  
21 the same tends to create intemperance or is prejudicial to the  
22 welfare, health, peace, temperance, and safety of the people  
23 of the community or of the state.

24           "(i) No importer shall sell alcoholic beverages to  
25 any person other than a wholesaler licensee, or sell to a  
26 wholesaler licensee any brand or brands of alcoholic beverages  
27 for sale or distribution in this state, except where the

1 importer has been granted written authorization from the  
2 manufacturer thereof to import and sell the brand or brands to  
3 be sold in the State of Alabama, which authorization is on  
4 file with the board.

5 "(j) No wholesaler shall maintain or operate any  
6 place where sales are made other than that for which the  
7 wholesale license is granted; provided, however, a wholesaler  
8 may be licensed to sell and distribute liquor, wine and beer.  
9 No wholesaler shall maintain any place for the storage of  
10 liquor, wine or beer unless the same has been approved by the  
11 board. No wholesaler license shall be issued for any premises  
12 in any part of which there is operated any retail license for  
13 the sale of alcoholic beverages.

14 "(k) Licenses issued under this code may not be  
15 assigned. The board is hereby authorized to transfer any  
16 license from one person to another, or from one place to  
17 another within the same governing jurisdiction, or both, as  
18 the board may determine; but no transfers shall be made to a  
19 person who would not have been eligible to receive the license  
20 originally, nor for the transaction of business at a place for  
21 which the license could not originally have been issued  
22 lawfully.

23 "(l) Every applicant for a transfer of a license  
24 shall file a written application with the board within such  
25 time as the board shall fix in its regulations. Whenever any  
26 license is transferred, there shall be collected a filing fee  
27 of \$50.00, to be paid to the board, and the board shall pay

1 such fee into the State Treasury to the credit of the Beer Tax  
2 and License Fund of the board.

3 "(m) In the event that any person to whom a license  
4 shall have been issued under the terms of this code shall  
5 become insolvent, make an assignment for the benefit of  
6 creditors, be adjudicated a bankrupt by either voluntary or  
7 involuntary action, the license of such person shall  
8 immediately terminate and be cancelled without any action on  
9 the part of the board, and there shall be no refund made, or  
10 credit given, for the unused portion of the license fee for  
11 the remainder of the license year for which said license was  
12 granted. Thereafter no license shall be issued by the board  
13 for the premises, wherein said license was conducted, to any  
14 assignee, committee, trustee, receiver, or successor of such  
15 licensee until a hearing has been held by the board as in the  
16 case of a new application for license. In all such cases, the  
17 board shall have the sole and final discretion as to the  
18 propriety of the issuance of a license for such premises, and  
19 the time it shall issue, and the period for which it shall be  
20 issued, and shall have the further power to impose conditions  
21 under which said licensed premises shall be conducted.

22 "§28-3A-25.

23 "(a) It shall be unlawful:

24 "(1) For any manufacturer, importer, or wholesaler,  
25 or the servants, agents, or employees of the same, to sell,  
26 trade, or barter in alcoholic beverages between the hours of

1 nine o'clock P.M. of any Saturday and two o'clock A.M. of the  
2 following Monday.

3 "(2) For any wholesaler or the servants, agents, or  
4 employees of the wholesaler to sell alcoholic beverages, to  
5 other than wholesale or retail licensees or others within this  
6 state lawfully authorized to sell alcoholic beverages, or to  
7 sell for export.

8 "(3) For any person, licensee, or the board either  
9 directly or by the servants, agents, or employees of the same,  
10 or for any servant, agent, or employee of the same, to sell,  
11 deliver, furnish, or give away alcoholic beverages to any  
12 person under the legal drinking age, as defined in Section  
13 28-1-5, or to permit any person under the legal drinking age,  
14 as defined in Section 28-1-5, to drink, consume, or possess  
15 any alcoholic beverages on any licensee's premises.

16 "(4) For any person to consume alcoholic beverages  
17 on the premises of any state liquor store or any off-premises  
18 licensee, or to allow alcoholic beverages to be consumed on  
19 the premises of any state liquor store or any off-premises  
20 licensee, except as specifically allowed by law for the  
21 tasting of alcoholic beverages.

22 "(5) For any licensee to fail to keep for a period  
23 of at least three years, complete and truthful records  
24 covering the operation of his or her license and particularly  
25 showing the date of all purchases of alcoholic beverages, the  
26 actual price paid therefor, and the name of the vendor, or to  
27 refuse the board or any authorized employee of the board

1 access to the records or the opportunity to make copies of the  
2 records when the request is made during business hours.

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

8 "(7) For any person to knowingly sell any alcoholic  
9 beverages to any person engaged in the business of illegally  
10 selling alcoholic beverages.

11 "(8) For any person to manufacture, transport, or  
12 import alcoholic beverages into this state, except in  
13 accordance with the reasonable rules and regulations of the  
14 board. This subdivision shall not prohibit the transportation  
15 of alcoholic beverages through the state or any dry county so  
16 long as the beverages are not for delivery therein, if the  
17 transportation is done in accordance with the reasonable rules  
18 and regulations of the board.

19 "(9) For any person to fortify, adulterate,  
20 contaminate, or in any manner change the character or purity  
21 of alcoholic beverages from that as originally marketed by the  
22 manufacturer, except that a retail licensee on order from a  
23 customer may mix a chaser or other ingredients necessary to  
24 prepare a cocktail or mixed drink for on-premises consumption.

25 "(10) For any person licensed to sell alcoholic  
26 beverages to offer to give any thing of value as a premium for  
27 the return of caps, stoppers, corks, stamps, or labels taken

1 from any bottle, case, barrel, or package containing the  
2 alcoholic beverages, or to offer to give any thing of value as  
3 a premium or present to induce the purchase of the alcoholic  
4 beverages, or for any other purpose whatsoever in connection  
5 with the sale of the alcoholic beverages. This subdivision  
6 shall not apply to the return of any moneys specifically  
7 deposited for the return of the original containers to the  
8 owners of the containers.

9 "(11) For any licensee or transporter for hire,  
10 servant, agent, or employee of the same, to transport any  
11 alcoholic beverages except in the original container, and for  
12 any transporter for hire to transport any alcoholic beverages  
13 within the state, unless the transporter holds a permit issued  
14 by the board.

15 "(12) For any manufacturer, importer, or wholesaler,  
16 servant, agent, or employee of the same, to deliver any  
17 alcoholic beverages, except in vehicles bearing such  
18 information on each side of the vehicle as required by the  
19 board.

20 "(13) For any person to sell alcoholic beverages  
21 within any dry county or county where the electors have voted  
22 against the sales, except in wet municipalities or as  
23 authorized by Section 28-3A-18.

24 "(14) For any person, firm, corporation,  
25 partnership, or association of persons as the terms are  
26 defined in Section 28-3-1, including any civic center  
27 authority, racing commission, fair authority, airport

1 authority, public or quasi-public board, agency, or  
2 commission, any agent thereof, or otherwise, who or which has  
3 not been properly licensed under the appropriate provisions of  
4 this chapter to sell, offer for sale, or have in possession  
5 for sale, any alcoholic beverages. Any alcoholic beverages so  
6 possessed, maintained, or kept shall be contraband and subject  
7 to condemnation and confiscation as provided by law.

8 "(15) For any manufacturer, distiller, producer,  
9 importer, or distributor of alcoholic beverages to employ and  
10 maintain any person, who is not a full-time bona fide  
11 employee, as a resident sales agent, broker, or other like  
12 representative, for the purpose of promoting a sale, purchase,  
13 or acquisition of alcoholic beverages to or by the state or  
14 the board, or for any person who is not a full-time bona fide  
15 employee to act as an agent, broker, or representative of any  
16 manufacturer, distributor, producer, importer, or distiller  
17 for that purpose.

18 "(16) For any person to sell, give away, or  
19 otherwise dispose of taxable alcoholic beverages within this  
20 state on which the required taxes have not been paid as  
21 required by law.

22 "(17) For any wholesaler or retailer, or the  
23 servant, agent, or employee of the same, to sell, distribute,  
24 deliver, or to receive or store for sale or distribution  
25 within this state any alcoholic beverages unless there first  
26 has been issued by the board a manufacturer's license to the  
27 manufacturer of the alcoholic beverages or its designated

1 representative or an importer license to the importer of the  
2 alcoholic beverages.

3 "(18) For any person under the legal drinking age,  
4 as defined in Section 28-1-5, to attempt to purchase, to  
5 purchase, consume, possess, or to transport any alcoholic  
6 beverages within the state; provided, however, it shall not be  
7 unlawful for a person under the legal drinking age, as defined  
8 in Section 28-1-5, to be an employee of a wholesale licensee  
9 or an off-premises retail licensee of the board to handle,  
10 transport, or sell any beer or table wine if the person under  
11 the legal drinking age is acting within the line and scope of  
12 his or her employment while so acting. There must be an adult  
13 licensee, servant, agent, or employee of the same present at  
14 all times a licensed establishment is open for business.

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

22 "(20) Except where authorized by a local act or  
23 general act of local application or pursuant to Section 2 or 3  
24 of this act, for the proprietor, keeper, or operator of any  
25 cafe, lunchroom, restaurant, hotel dining room, or other  
26 public place to knowingly permit any person to give away,  
27 sell, or serve for consumption on or off the premises, or to

1 drink or consume any alcoholic beverages on the premises of  
2 the cafe, lunchroom, restaurant, hotel dining room, or other  
3 public place on Sunday after the hour of two o'clock A.M.

4 "(21) For a person under the age of 21 years to  
5 knowingly use or attempt to use a false, forged, deceptive, or  
6 otherwise nongenuine driver's license to obtain or attempt to  
7 obtain alcoholic beverages within this state.

8 "(b) (1) Any violation of subdivisions (1) through  
9 (17) of subsection (a) shall be a misdemeanor punishable by a  
10 fine of not less than one hundred dollars (\$100) nor more than  
11 one thousand dollars (\$1,000), to which, at the discretion of  
12 the court or judge trying the case, may be added imprisonment  
13 in the county jail or at hard labor for the county for not  
14 more than six months for the first conviction; and, on the  
15 second conviction of a violation of the subdivisions, the  
16 offense shall, in addition to the aforementioned fine, be  
17 punishable by imprisonment or at hard labor for the county for  
18 not less than three months nor more than six months to be  
19 imposed by the court or judge trying the case; and, on the  
20 third conviction and every subsequent conviction of a  
21 violation of the subdivisions, the offense shall, in addition  
22 to a fine within the limits abovenamed, be punishable by  
23 imprisonment or at hard labor for the county for not less than  
24 six months nor more than 12 months.

25 "(2) Any violation of any provision of subdivisions  
26 (18), (19), (20), and (21) of subsection (a) shall be a  
27 misdemeanor punishable by a fine of not less than fifty

1 dollars (\$50) nor more than five hundred dollars (\$500), to  
2 which, at the discretion of the court or judge trying the  
3 case, may be added imprisonment in the county jail or at hard  
4 labor for the county for not more than three months.

5 "(c) In addition to the penalties otherwise provided  
6 for a violation of subdivisions (18) and (21) of subsection  
7 (a), upon conviction, including convictions in juvenile court  
8 or under the Youthful Offender Act, the offender's license to  
9 operate a motor vehicle in this state shall be surrendered by  
10 the offender to the judge adjudicating the case for a period  
11 of not less than three months nor more than six months. The  
12 judge shall forward a copy of the order suspending the license  
13 to the Department of Public Safety for enforcement purposes."

14 Section 2. (a) In any wet county, the county  
15 commission, by resolution, may regulate and permit the sale of  
16 alcoholic beverages on Sunday after the hour of two o'clock  
17 a.m., for on-premises or off-premises consumption, or both, as  
18 determined by the county commission, by properly licensed  
19 retail licensees of the Alcoholic Beverage Control Board.

20 (b) In any wet county, the county commission, by  
21 resolution, may regulate and permit the sale of keg or draft  
22 beer, for on-premises or off-premises consumption, or both, as  
23 determined by the county commission, by properly licensed  
24 retail licensees of the Alcoholic Beverage Control Board.

25 Section 3. (a) In any wet municipality, the local  
26 governing body, by ordinance, may regulate and permit the sale  
27 of alcoholic beverages on Sunday after the hour of two o'clock

1 a.m., for on-premises or off-premises consumption, or both, as  
2 determined by the local governing body, by properly licensed  
3 retail licensees of the Alcoholic Beverage Control Board.

4 (b) In any wet municipality, the local governing  
5 body, by ordinance, may regulate and permit the sale of keg or  
6 draft beer, for on-premises or off-premises consumption, or  
7 both, as determined by the local governing body, by properly  
8 licensed retail licensees of the Alcoholic Beverage Control  
9 Board.

10 Section 4. This act shall become effective on the  
11 first day of the third month following its passage and  
12 approval by the Governor, or its otherwise becoming law.