

1 SB126
2 209363-2
3 By Senator Waggoner
4 RFD: Judiciary
5 First Read: 02-FEB-21
6 PFD: 02/01/2021

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to alcoholic beverages; to amend Sections
12 28-1-4, 28-3-1, 28-3A-13, 28-3A-23, and 28-3A-14, Code of
13 Alabama 1975; to provide for a delivery service license from
14 the Alcoholic Beverage Control Board that authorizes the
15 licensee, using its employees or independent contractors, to
16 deliver beer, wine, and spirits directly to individuals in
17 Alabama who are at least 21 years of age for their personal
18 use; to provide for the licensing procedure; to provide
19 restrictions and requirements on the delivery of beer, wine,
20 and spirits; and to provide for issuance and renewal fees for
21 a delivery service license.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. This act has been enacted pursuant to the
24 authority granted to the state under the Twenty-first
25 Amendment to the United States Constitution and the powers
26 reserved to the state under the Tenth Amendment to the United
27 States Constitution and the inherent powers of the state under

1 the Constitution of Alabama of 1901. It is the intent of the
2 Legislature that this act maintains the current three-tier
3 system of control over the sale, distribution, purchase,
4 transportation, manufacture, consumption, and possession of
5 alcoholic beverages in the state and promotes the health,
6 safety, and welfare of residents of this state. This act shall
7 be liberally construed to ensure that the sale, purchase,
8 transportation, manufacture, consumption, delivery, and
9 possession of alcoholic beverages shall be prohibited except
10 as authorized in this act. If any provision of this act or its
11 application to any person or circumstance is determined by a
12 court or other authority of competent jurisdiction to be
13 invalid or unconstitutional, that provision shall be stricken
14 and the remaining provisions shall be construed in accordance
15 with the intent of the Legislature to further limit rather
16 than expand commerce in alcoholic beverages, malt beverages,
17 unfortified wine, and fortified wine, and shall be construed
18 to enhance strict regulatory control over taxation,
19 distribution, and sale of alcoholic beverages through the
20 three-tier regulatory system and the franchise laws imposed by
21 this act.

22 Section 2. Sections 28-1-4, 28-3-1, 28-3A-13,
23 28-3A-14, and 28-3A-23, Code of Alabama 1975, are amended to
24 read as follows:

25 "§28-1-4.

26 "(a) The words and phrases used in this section
27 shall have the meanings ascribed to them in Section 28-3-1~~and~~

1 ~~any acts amendatory thereof, supplementary thereto or~~
2 ~~substituted therefor.~~

3 "(b) ~~It~~ Except as provided in subsections (c) and
4 (d), it shall be unlawful for any common or permit carriers,
5 operators carrier, operator of trucks, buses, or other
6 conveyances or ~~out-of-state manufacturers or suppliers~~ a
7 manufacturer, supplier, or importer to make delivery of any
8 alcoholic beverage ~~from without the State of Alabama~~ to any
9 person, ~~association or corporation~~ within the state, except to
10 the Alabama Alcoholic Beverage Control Board and to
11 manufacturers, importers, wholesalers, and warehouses licensed
12 by the Alabama Alcoholic Beverage Control Board to receive the
13 alcoholic beverages so delivered.

14 "~~(c) Any violation of subsection (a) of this section~~
15 ~~shall be a misdemeanor, punishable as provided in paragraph~~
16 ~~(1) of subsection (b) of Section 28-3A-25.~~

17 "~~(d) All laws or parts of law which conflict or are~~
18 ~~inconsistent with this section are hereby repealed, provided,~~
19 ~~however, the provisions of Section 28-1-3 are excluded.~~

20 "(c) Notwithstanding subsection (b), a delivery
21 service licensee or an employee or independent contractor of a
22 delivery service licensee, pursuant to Section 3 of the act
23 adding this amendatory language, may transport and deliver
24 beer, wine, and spirits to an individual in the state who is
25 at least 21 years of age.

26 "(d) Notwithstanding any law, rule, ordinance, or
27 resolution to the contrary, this section and Section 3 of the

1 act adding this amendatory language shall exclusively govern
2 the delivery of wine, beer, and spirits throughout the state.

3 "§28-3-1.

4 "As used in this title, the following words shall
5 have the following meanings unless the context clearly
6 indicates otherwise:

7 "(1) ALCOHOLIC BEVERAGES. Any alcoholic, spirituous,
8 vinous, fermented, or other alcoholic beverage, or combination
9 of liquors and mixed liquor, a part of which is spirituous,
10 vinous, fermented, or otherwise alcoholic, and all drinks or
11 drinkable liquids, preparations or mixtures intended for
12 beverage purposes, which contain one-half of one percent or
13 more of alcohol by volume, and shall include liquor, beer, and
14 wine.

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

18 "(3) BEER, or MALT OR BREWED BEVERAGES. ~~Except as~~
19 ~~otherwise provided in this subdivision, any~~ Any beer, lager
20 beer, ale, porter, malt or brewed beverage, or similar
21 fermented ~~malt liquor~~ beverage containing one-half of one
22 percent or more of alcohol by volume and not in excess of
23 thirteen and nine-tenths percent alcohol by volume, ~~by~~
24 ~~whatever name the same may be called~~ brewed or produced from
25 malt, wholly or in part, or from rice, grain of any kind,
26 bran, glucose, sugar, or molasses. A beer or malt or brewed
27 beverage may incorporate honey, fruit, fruit juice, fruit

1 concentrate, herbs, spices, or other flavorings during the
2 fermentation process. The term does not include any product
3 defined as liquor, table wine, or wine.

4 "(4) BOARD. The Alcoholic Beverage Control Board.

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

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

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

18 "(8) CLUB.

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

1 payment, food with or without lodging is habitually served.
2 The club shall hold regular meetings, continue its business
3 through officers regularly elected, admit members by written
4 application, investigation, and ballot and charge and collect
5 dues from elected members.

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

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

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

24 "(11) DELIVERY. The transportation of alcohol
25 directly from a retail licensee of the board to an individual,
26 pursuant to Section 28-1-4 and Section 3 of the act adding
27 this amendatory language.

1 "(12) DELIVERY SERVICE LICENSE. A license issued by
2 the Alabama Alcoholic Beverage Control Board in accordance
3 with Section 3 of the act adding this amendatory language that
4 authorizes the licensee, the licensee's employees, or
5 independent contractors under a contractual or business
6 arrangement with the licensee to transport and deliver
7 alcoholic beverages.

8 "~~(11)~~(13) DRY COUNTY. Any county which by a majority
9 of those voting voted in the negative in an election
10 heretofore held under the applicable statutes at the time of
11 the election or may hereafter vote in the negative in an
12 election or special method referendum hereafter held in
13 accordance with the provisions of Chapter 2 of this title, or
14 held in accordance with the provisions of any act hereafter
15 enacted permitting such election.

16 "~~(12)~~(14) DRY MUNICIPALITY. Any municipality within
17 a wet county which has, by its governing body or by a majority
18 of those voting in a municipal election heretofore held in
19 accordance with the provisions of Section 28-2-22, or in a
20 municipal option election heretofore or hereafter held in
21 accordance with the provisions of Act 84-408, Acts of Alabama
22 1984, appearing as Chapter 2A of this title, or any act
23 hereafter enacted permitting municipal option election, voted
24 to exclude the sale of alcoholic beverages within the
25 corporate limits of the municipality.

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

1 "~~(13)~~(16) GENERAL WELFARE PURPOSES.

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

4 "b. Services, including supplementation and
5 supplementary services under the federal Social Security Act,
6 to or on behalf of persons to whom ~~such~~ public assistance may
7 be given under Sections 38-2-5 and 38-4-1;

8 "c. Service to and on behalf of dependent,
9 neglected, or delinquent children; and

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

12 "~~(14)~~(17) HEARING COMMISSION. A body appointed by
13 the board to hear and decide all contested license
14 applications and all disciplinary charges against any licensee
15 for violation of this title or the regulations of the board.

16 "~~(15)~~(18) HOTEL. A building or buildings held out to
17 the public for housing accommodations of travelers or
18 transients, and shall include motel, but shall not include a
19 rooming house or boarding house.

20 "~~(16)~~(19) IMPORTER. Any person, association, or
21 corporation engaged in importing alcoholic beverages, liquor,
22 wine, or beer, manufactured outside of the United States of
23 America into this state or for sale or distribution in this
24 state, or to the board or to a licensee of the board.

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

1 "~~(17)~~(21) KEG. A pressurized factory sealed
2 container with a capacity equal to or greater than five US
3 gallons, from which beer is withdrawn by means of an external
4 tap.

5 "~~(18)~~(22) LIQUOR. Any alcoholic, spirituous, vinous,
6 fermented, or other alcoholic beverage, or combination of
7 liquors and mixed liquor, a part of which is spirituous,
8 fermented, vinous, or otherwise alcoholic, and all drinks or
9 drinkable liquids, preparations, or mixtures intended for
10 beverage purposes, which contain one-half of one percent or
11 more of alcohol by volume, except beer and table wine.

12 "~~(19)~~(23) LIQUOR STORE. A liquor store operated by
13 the board, where alcoholic beverages other than beer are
14 authorized to be sold in unopened containers.

15 "~~(20)~~(24) MANUFACTURER. Any person, association, or
16 corporation engaged in the producing, bottling, manufacturing,
17 distilling, rectifying, or compounding of alcoholic beverages,
18 liquor, beer, or wine in this state or for sale or
19 distribution in this state or to the board or to a licensee of
20 the board.

21 "~~(21)~~(25) MEAD. An alcoholic beverage produced by
22 fermenting a solution of honey and water with grain mash and
23 containing not more than 18 percent alcohol by volume.

24 "~~(22)~~(26) MEAL. A diversified selection of food some
25 of which is not susceptible of being consumed in the absence
26 of at least some articles of tableware and which cannot be
27 conveniently consumed while one is standing or walking about.

1 "~~(23)~~(27) MINOR. Any person under 21 years of age;
2 provided, however, in the event Section 28-1-5, shall be
3 repealed or otherwise shall be no longer in effect, thereafter
4 the provisions of Section 26-1-1, shall govern.

5 "~~(24)~~(28) MUNICIPALITY. Any incorporated city or
6 town of this state to include its police jurisdiction.

7 "~~(25)~~(29) PERSON. Every natural person, association,
8 or corporation. Whenever used in a clause prescribing or
9 imposing a fine or imprisonment, or both, such term as applied
10 to association shall mean the partners or members thereof and
11 as applied to corporation shall mean the officers thereof,
12 except as to incorporated clubs the term person shall mean
13 such individual or individuals who, under the bylaws of such
14 clubs, shall have jurisdiction over the possession and sale of
15 liquor therein.

16 "~~(26)~~(30) POPULATION. The population according to
17 the last preceding or any subsequent decennial census of the
18 United States, except where a municipality is incorporated
19 subsequent to the last census, in which event, its population
20 until the next decennial census shall be the population of the
21 municipality as determined by the judge of probate of the
22 county as the official population on the date of its
23 incorporation.

24 "~~(27)~~(31) RESTAURANT. A reputable place licensed as
25 a restaurant, operated by a responsible person of good
26 reputation and habitually and principally used for the purpose

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

3 "~~(28)~~ (32) RETAILER. Any person licensed by the board
4 to engage in the retail sale of any alcoholic beverages to the
5 consumer.

6 "~~(29)~~ (33) SALE or SELL. Any transfer of liquor, wine
7 or beer for a consideration, and any gift in connection with,
8 or as a part of, a transfer of property other than liquor,
9 wine, or beer for a consideration.

10 "~~(30)~~ (34) SELLING PRICE. The total marked-up price
11 of spirituous or vinous liquors sold by the board, exclusive
12 of taxes levied thereon.

13 "~~(31)~~ (35) TABLE WINE. Except as otherwise provided
14 in this subdivision, any wine containing not more than 24
15 percent alcohol by volume. Table wine does not include any
16 wine containing more than sixteen and one-half percent alcohol
17 by volume that is made with herbs or flavors, except vermouth,
18 or is an imitation or other than standard wine. Table wine is
19 not liquor, spirituous, or vinous.

20 "~~(32)~~ (36) UNOPENED CONTAINER. A container containing
21 alcoholic beverages, which has not been opened or unsealed
22 subsequent to filling and sealing by the manufacturer or
23 importer.

24 "~~(33)~~ (37) WET COUNTY. Any county which by a majority
25 of those voting voted in the affirmative in an election
26 heretofore held in accordance with the statutes applicable at
27 the time of the election or may hereafter vote in the

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

4 "~~(34)~~ (38) WET MUNICIPALITY. Any municipality in a
5 dry county which by a majority of those voting voted in the
6 affirmative in a municipal option election heretofore or
7 hereafter held in accordance with the provisions of Act
8 84-408, Acts of Alabama 1984, appearing as Chapter 2A of this
9 title, as amended, or any act hereafter enacted permitting
10 municipal option election, or any municipality which became
11 wet by vote of the governing body or by the voters of the
12 municipality heretofore or hereafter held under the special
13 method referendum provisions of Section 28-2-22, or as
14 hereafter provided, where the county has become dry subsequent
15 to the elected wet status of the municipality.

16 "~~(35)~~ (39) WHOLESALER. Any person licensed by the
17 board to engage in the sale and distribution of table wine and
18 beer, or either of them, within this state, at wholesale only,
19 to be sold by export or to retail licensees or other wholesale
20 licensees or others within this state lawfully authorized to
21 sell table wine and beer, or either of them, for the purpose
22 of resale only.

23 "~~(36)~~ (40) WINE. All beverages made from the
24 fermentation of fruits, berries, or grapes, with or without
25 added spirits, and produced in accordance with the laws and
26 regulations of the United States, containing not more than 24
27 percent alcohol by volume, and shall include all sparkling

1 wines, carbonated wines, special natural wines, rectified
2 wines, vermouths, vinous beverages, vinous liquors, and like
3 products, including restored or unrestored pure condensed
4 juice.

5 "§28-3A-13.

6 "(a) Upon applicant's compliance with ~~the provisions~~
7 ~~of~~ this chapter and the ~~regulations made~~ rules adopted
8 thereunder, the board shall, where the application is
9 accompanied by a certificate from the clerk or proper officer
10 setting out that the applicant has presented his or her
11 application to the governing authority of the municipality, if
12 the licensed premises is to be located therein, and has
13 obtained its consent and approval issue a restaurant liquor
14 license for a hotel, restaurant, civic center authority, or
15 dinner theater which will authorize the licensee to purchase
16 liquor and wine from the board or as authorized by the board
17 and to purchase table wine and beer, including draft or keg
18 beer, in any county or municipality in which the sale thereof
19 is permitted, from any wholesale licensee of the board and, in
20 that part of the hotel, restaurant, club, or dinner theater
21 set out in the license, to sell liquor and wine, dispensed
22 from containers of any size, and beer, including draft or keg
23 beer, in any county or municipality in which the sale thereof
24 is permitted, to the patrons, guests, or members for
25 on-premises consumption in any part of the civic center or in
26 that part of the hotel, restaurant, or dinner theater
27 habitually used for serving meals to patrons, guests, or

1 members, or other public or private rooms of the building in
2 accordance with ~~the provisions of~~ this chapter and the
3 ~~regulations made~~ rules adopted thereunder, and where a
4 restaurant located in a hotel, but not operated by the owner
5 of the hotel, is licensed to sell alcoholic beverages in the
6 restaurant, it may also sell alcoholic beverages to guests in
7 private rooms in the hotel.

8 "(b) In accordance with Section 3 of the act adding
9 this amendatory language, a restaurant retail liquor licensee
10 licensed to sell beer, wine, or spirits for on-premises
11 consumption may apply for and be issued a delivery service
12 license that authorizes the licensee to deliver, along with
13 the purchase of a meal, beer, wine, or spirits from the
14 retailer's premises.

15 "§28-3A-14.

16 "Upon applicant's compliance with the provisions of
17 this chapter and the regulations made thereunder, the board
18 shall issue to applicant a retail table wine license which
19 will authorize the licensee to purchase table wine from the
20 board or from a licensed wholesaler in counties and
21 municipalities where authorized, and to sell at retail, in
22 unopened original containers, ~~or dispense from containers of~~
23 ~~any size~~ and to sell at retail or to dispense in a container
24 approved by the board, for on-premises consumption in a room
25 or rooms or place on the licensed premises at all times
26 accessible to the use and accommodation of the general public,
27 and in ~~original unopened~~ containers approved by the board for

1 off-premises consumption, where such use of the proposed
2 location is not, at the time of the original application,
3 prohibited by a valid zoning ordinance or other ordinance in
4 the valid exercise of police power by the governing body of
5 the municipality or county in which the outlet is located.

6 "§28-3A-23.

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

11 "(b) Licenses shall be granted and issued by the
12 board only to reputable individuals, to associations whose
13 members are reputable individuals, or to reputable
14 corporations organized under the laws of the State of Alabama
15 or duly qualified thereunder to do business in Alabama, or, in
16 the case of manufacturers, duly registered under the laws of
17 Alabama, and then only when it appears that all officers and
18 directors of the corporation are reputable individuals.

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

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

1 electronic, properly executed by a criminal justice agency or
2 an individual properly trained in fingerprinting techniques.
3 The fingerprints and form shall be submitted by the board to
4 the State Bureau of Investigations, or any entity contracted
5 with, for the purposes of furnishing criminal background
6 checks. The State Bureau of Investigations or contracted
7 entity shall forward a copy of the applicant's prints to the
8 Federal Bureau of Investigation for a national criminal
9 background check.

10 "The applicant shall pay all costs associated with
11 the background checks required by this section.

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

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

22 "(c) Every license issued under this code shall be
23 constantly and conspicuously displayed on the licensed
24 premises.

25 "(d) Each retail liquor license application must be
26 approved by the governing authority of the municipality if the
27 retailer is located in a municipality, or by the county

1 commission if the retailer is located in the county and
2 outside the limits of the municipality before the board shall
3 have authority to grant the license.

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

1 have a license for each type of retail operation. Provided,
2 there shall be no licenses issued by the board for the sale of
3 liquor, beer or wine by rolling stores.

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

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

21 "(h) Draft or keg beer may be sold or dispensed
22 within this state within those counties in which and in the
23 manner in which the sale of draft or keg beer was authorized
24 by law on September 30, 1980 or in which the sale of draft or
25 keg beer is hereafter authorized by law; provided in rural
26 communities with a predominantly foreign population, after the
27 payment of the tax imposed by this title, draft or keg beer

1 may be sold or dispensed by special permit from the board,
2 when, in the judgment of the board, the use and consumption of
3 draft or keg beer is in accordance with the habit and customs
4 of the people of any such rural community; provided further,
5 the board may, in its discretion, grant to any civic center
6 authority or its franchisee or concessionaire, to which the
7 board may have issued or may simultaneously issue a retail
8 license under the provisions of this code, a revocable
9 temporary permit to sell or dispense in any part of its civic
10 center, for consumption therein, draft or keg beer. Either
11 such permit shall be promptly revoked by the board if, in its
12 judgment, the same tends to create intemperance or is
13 prejudicial to the welfare, health, peace, temperance, and
14 safety of the people of the community or of the state.

15 "(i) No importer shall sell alcoholic beverages to
16 any person other than a wholesaler licensee, or sell to a
17 wholesaler licensee any brand or brands of alcoholic beverages
18 for sale or distribution in this state, except where the
19 importer has been granted written authorization from the
20 manufacturer thereof to import and sell the brand or brands to
21 be sold in the State of Alabama, which authorization is on
22 file with the board.

23 "(j) No wholesaler shall maintain or operate any
24 place where sales are made other than that for which the
25 wholesale license is granted; provided, however, a wholesaler
26 may be licensed to sell and distribute liquor, wine and beer.
27 No wholesaler shall maintain any place for the storage of

1 liquor, wine or beer unless the same has been approved by the
2 board. No wholesaler license shall be issued for any premises
3 in any part of which there is operated any retail license for
4 the sale of alcoholic beverages.

5 "(k) Licenses issued under this code may not be
6 assigned. The board is hereby authorized to transfer any
7 license from one person to another, or from one place to
8 another within the same governing jurisdiction, or both, as
9 the board may determine; but no transfers shall be made to a
10 person who would not have been eligible to receive the license
11 originally, nor for the transaction of business at a place for
12 which the license could not originally have been issued
13 lawfully.

14 "(l) Every applicant for a transfer of a license
15 shall file a written application with the board within such
16 time as the board shall fix in its regulations. Whenever any
17 license is transferred, there shall be collected a filing fee
18 of \$50.00, to be paid to the board, and the board shall pay
19 such fee into the State Treasury to the credit of the Beer Tax
20 and License Fund of the board.

21 "(m) In the event that any person to whom a license
22 shall have been issued under the terms of this code shall
23 become insolvent, make an assignment for the benefit of
24 creditors, be adjudicated a bankrupt by either voluntary or
25 involuntary action, the license of such person shall
26 immediately terminate and be cancelled without any action on
27 the part of the board, and there shall be no refund made, or

1 credit given, for the unused portion of the license fee for
2 the remainder of the license year for which said license was
3 granted. Thereafter no license shall be issued by the board
4 for the premises, wherein said license was conducted, to any
5 assignee, committee, trustee, receiver, or successor of such
6 licensee until a hearing has been held by the board as in the
7 case of a new application for license. In all such cases, the
8 board shall have the sole and final discretion as to the
9 propriety of the issuance of a license for such premises, and
10 the time it shall issue, and the period for which it shall be
11 issued, and shall have the further power to impose conditions
12 under which said licensed premises shall be conducted."

13 Section 3. (a) Any entity licensed by the Alcoholic
14 Beverage Control Board for off-premises consumption,
15 restaurant licensee of the board, or valid and responsible
16 organization of good reputation that is registered to do
17 business in the state may apply for and be issued a delivery
18 service license. In order to receive a license, an applicant
19 shall do all of the following:

20 (1) File an application with the Alcoholic Beverage
21 Control Board.

22 (2) Pay a non refundable filing fee of one hundred
23 dollars (\$100), and a license fee of two hundred fifty dollars
24 (\$250).

25 (3) Provide to the board a sample contract that the
26 applicant intends to enter into with a retailer for the

1 delivery of beer, wine, and spirits, unless the applicant is
2 the retailer.

3 (4)a. Provide to the board both of the following:

4 1. An attestation that the applicant is 21 years of
5 age or older.

6 2. A true, correct, and complete criminal court
7 record of all arrests and subsequent dispositions for the past
8 three years. If the applicant has been convicted of a felony
9 or a misdemeanor for a violation of Section
10 28-3A-25(a) (3), Code of Alabama 1975, then the board shall
11 reject the application and shall not issue a license.

12 b. This subdivision shall not apply to publicly
13 traded companies.

14 (5)a. For an applicant with four or more delivery
15 drivers, whether those drivers are employees or independent
16 contractors, provide proof of a general liability insurance
17 policy in an amount no less than five million dollars
18 (\$5,000,000) per occurrence.

19 b. For an applicant with three or fewer delivery
20 drivers, whether those delivery drivers are employees or
21 independent contractors, provide proof of a general liability
22 insurance policy in an amount no less than two million dollars
23 (\$2,000,000) per occurrence.

24 (6) Provide to the board an outline for an internal
25 or external training and certification program for delivery
26 personnel which addresses topics such as identifying underage

1 individuals, intoxicated individuals, and fake or altered
2 identification.

3 (b) A delivery service licensee may deliver, or
4 contract with any retailer in the state for the delivery of,
5 beer, wine, or spirits from a retail premises to an individual
6 in the state who is at least 21 years of age, for personal use
7 by that individual only, and not for resale, subject to all of
8 the following:

9 (1) The individual placing the order must receive
10 the ordered alcoholic beverages on the same calendar day that
11 the alcoholic beverages are removed from the licensed retail
12 premises.

13 (2) Any delivery shall be made in vehicles that are
14 owned or leased by the delivery service licensee or an
15 employee or independent contractor of the licensee.

16 (3) Any beer, wine, or spirits shall be delivered in
17 a sealed unopened container, as defined in Section 28-3-1,
18 Code of Alabama 1975.

19 (4) If the delivery service licensee is a
20 restaurant, then any beer, wine, or spirits delivered by the
21 licensee must be accompanied by a meal.

22 (5)a.1. Beer, with the exception of draft beer, may
23 be delivered in any size container, provided that the total
24 amount delivered does not exceed the equivalent of 120
25 12-ounce containers of beer per customer in any single 24-hour
26 period.

1 2. Draft beer may be sold in accordance with board
2 rules in a total amount not to exceed 288 ounces per customer
3 in any single 24-hour period, and may be delivered only where
4 delivery has been authorized by resolution or ordinance of the
5 local governing jurisdiction.

6 b. Wine may be sold in any size container, provided
7 that the total amount delivered does not exceed 9,000
8 milliliters or the equivalent of 12 750-milliliter bottles of
9 wine per customer in any single 24-hour period.

10 c. Spirits may be sold in any size bottle by an
11 off-premises licensee; provided, the total amount delivered
12 does not exceed 9,000 milliliters per customer in any single
13 24-hour period.

14 d. Spirits may be sold in any size bottle by a
15 restaurant licensee; provided, the total amount delivered does
16 not exceed 375 milliliters per customer in any single 24-hour
17 period.

18 (6) Any employee or independent contractor
19 delivering beer, wine, or spirits shall comply with all of the
20 following:

21 a. Is at least 21 years of age.

22 b. Has a valid driver's license.

23 c. Has, within the last 24 months, undergone a
24 criminal background check that includes driving records, and
25 the results of which comply with both of the following:

26 1. The individual has not been convicted within the
27 past seven years of driving under the influence.

1 2. The individual has not been convicted, at any
2 time, of a crime involving a sexual offense, fraud, property
3 damage, theft, an act of violence, or an act of terror.

4 3. The individual does not have a match on the
5 National Sex Offender Registry.

6 d. Does not receive compensation based on whether an
7 attempted delivery of beer, wine, or spirits results in a
8 completed transaction.

9 e. Is trained and certified consistent with the
10 training program submitted to the board as required by
11 subdivision (a) (6), with documentation on file with the
12 delivery service licensee. Upon request, the licensee shall
13 provide this documentation to the board.

14 (7) A delivery service licensee may facilitate
15 orders for the sale and delivery of beer, wine, or spirits by
16 telephone, Internet, or by other electronic means; provided,
17 all of the following:

18 a. The delivery service licensee shall obtain from
19 the customer a confirmation that he or she is at least 21
20 years of age at the time the order is placed.

21 b. The delivery service licensee shall ensure all
22 payments have been processed for delivery prior to removing
23 the alcohol from the licensed premises.

24 c. If the delivery service licensee is a retail
25 licensee, any order for sale and delivery of beer, wine, or
26 spirits received at the licensee's primary place of business
27 or through a third party licensee or facilitator shall be

1 construed as a sale made at the licensee's primary place of
2 business.

3 (8) Any delivery in a sealed package shall be
4 stamped, printed, or labeled in a manner approved by the
5 board, and that stamp, print, or label shall be prominently
6 displayed on the outside of the sealed package to indicate in
7 readily apparent font or type that the package contains
8 alcohol and that the signature of an individual at least 21
9 years of age is required for delivery.

10 (9) A delivery service licensee shall require each
11 recipient, at the time of delivery, to provide valid photo
12 identification that conforms to board rules and that verifies
13 that he or she is at least 21 years of age, and shall require
14 the recipient to sign for the delivery.

15 (10) A delivery service licensee shall possess
16 identification scanning software technology, or a
17 state-of-the-art alternative approved by the board, available
18 at the point of delivery that verifies the recipient is at
19 least 21 years of age and retains the recipient's name, date
20 of birth, and signature.

21 (11) A delivery service licensee shall provide each
22 employee or independent contractor making a delivery with
23 either a printed copy of the delivery service license or an
24 electronic copy indicating the delivery service license's name
25 and number, which shall be available for inspection upon
26 request from the board or any law enforcement officer.

1 (12) A delivery service licensee shall return any
2 beer, wine, or spirits to the retailer if the recipient is
3 under the age of 21 years; appears intoxicated; fails to
4 provide proof of identification; fails or refuses to sign for
5 delivery; fails to complete the identification scanning
6 software process or state-of-the-art alternative; declines to
7 accept the delivery of beer, wine, or spirits; or any
8 circumstances in the delivery environment indicate illegal
9 conduct, overconsumption, or an otherwise unsafe environment
10 for the consumption of alcohol. In no event shall a delivery
11 service licensee leave an alcoholic beverage delivery
12 unattended.

13 (13) A delivery service licensee may deliver through
14 a dry county or municipality, but may not deliver or cause a
15 delivery to be made to an individual residing in a dry county
16 or dry municipality. Every employee or independent contractor
17 conducting a delivery shall maintain within the delivery
18 vehicle evidence, electronic or otherwise, that the intended
19 recipient of any alcoholic beverages is not located in a dry
20 county or dry municipality.

21 (14) A delivery service licensee may deliver alcohol
22 only during hours when alcohol may be sold under general or
23 local law.

24 (15) A delivery service licensee may not deliver any
25 alcoholic beverage to any residence hall on the grounds of any
26 institution of higher learning, including any college,

1 university, community college, technical college, or junior
2 college.

3 (16) A delivery service licensee may not deliver
4 alcohol to a location more than 75 miles from the licensed
5 premise of the retail licensee where the delivery originated.

6 (17) A delivery service licensee may not deliver any
7 alcoholic beverage to any licensee of the board.

8 (18) A delivery service licensee shall report, at
9 the direction of the board, the total amount of beer, wine, or
10 spirits directly delivered to residents in the state during
11 the preceding calendar year.

12 (19) A delivery service licensee shall permit the
13 board or the Department of Revenue to perform an audit of the
14 licensee's records upon request.

15 (c) A delivery service licensee shall be deemed to
16 have consented to the jurisdiction of the board, any law
17 enforcement agency, and the Alabama courts concerning
18 enforcement of this section and any related laws or rules.

19 (d) A delivery service licensee shall be considered
20 to be a servant or agent of the retail licensee with whom the
21 licensee has contracts, and any violation by the delivery
22 service licensee, its employees, or its independent
23 contractors may also be deemed to be a violation by the retail
24 licensee.

25 (e) A technology services company shall not be
26 required to obtain a delivery service license if the company
27 does not employ or contract with the individual making the

1 deliveries, but merely provides software or a digital network
2 application that connects consumers and licensed retailers for
3 the delivery of alcoholic beverages from a licensed retailer.

4 (f) A delivery service licensee may renew its
5 license with the board by paying an annual renewal fee of two
6 hundred fifty dollars (\$250) and by otherwise complying with
7 the renewal process set forth in Section 28-3A-5, Code of
8 Alabama 1975.

9 (g) The board may enforce the requirements of this
10 section to suspend or revoke a delivery service license by the
11 same administrative proceedings that apply to alcoholic
12 beverage licenses, and the board may accept payment of a fine
13 in lieu of suspension or revocation. The payments shall be as
14 determined by rule of the board.

15 (h) Except as provided in this section, local
16 ordinances establishing different rules on delivery, delivery
17 service licensees, or requiring additional permits or fees,
18 are prohibited.

19 (i) The board may adopt rules pursuant to the
20 Alabama Administrative Procedure Act to implement this act.

21 (j) Any violation of this section is a Class B
22 misdemeanor upon a first conviction. A second or subsequent
23 conviction is a Class A misdemeanor.

24 Section 4. This act shall become effective on the
25 first day of the sixth month following its passage and
26 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Judiciary..... 02-FEB-21

Read for the second time and placed on the calen-
dar..... 03-FEB-21

Read for the third time and passed as amended 11-FEB-21

Yeas 25
Nays 4

Patrick Harris,
Secretary.