

1 HB101
2 208834-1
3 By Representative Isbell
4 RFD: Economic Development and Tourism
5 First Read: 02-FEB-21
6 PFD: 12/17/2020

SYNOPSIS: Under existing law, delivery of beer and wine to a residence is prohibited.

This bill would provide for a delivery service license issued by the Alcoholic Beverage Control Board that would allow the licensee to deliver sealed beer and wine from certain licensed retail establishments directly to individuals in Alabama who are at least 21 years of age for their personal use.

This bill would provide for the licensing process and establish certain restrictions and requirements for delivery service licensees.

This bill would also authorize certain employees of a delivery service licensee and independent contractors of a delivery service licensee to deliver beer and wine to individuals in Alabama.

A BILL
TO BE ENTITLED

1 AN ACT

2
3 Relating to alcoholic beverages; to amend Section
4 28-1-4, Code of Alabama 1975; to provide for a delivery
5 service license from the Alcoholic Beverage Control Board that
6 authorizes the licensee, using its employees or independent
7 contractors, to deliver beer and wine directly to Alabama
8 residents who are at least 21 years of age for their personal
9 use; to provide for the licensing procedure; to provide
10 restrictions and requirements on the delivery of beer or wine;
11 and to provide for issuance and renewal fees for a delivery
12 service license.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Section 28-1-4, Code of Alabama 1975, is
15 amended to read as follows:

16 "§28-1-4.

17 "(a) The words and phrases used in this section
18 shall have the meanings ascribed to them in Section 28-3-1 ~~and~~
19 ~~any acts amendatory thereof, supplementary thereto or~~
20 ~~substituted therefor.~~

21 "(b) ~~It~~ Except as provided in subsection (c), it
22 shall be unlawful for any common ~~or permit carriers, operators~~
23 carrier, operator of trucks, buses, or other conveyances or
24 ~~out-of-state manufacturers or suppliers~~ a manufacturer or
25 supplier to make delivery of any alcoholic beverage ~~from~~
26 ~~without the State of Alabama~~ to any person, ~~association or~~
27 ~~corporation~~ within the state, except to the Alabama Alcoholic

1 Beverage Control Board and to manufacturers, importers,
2 wholesalers, and warehouses licensed by the Alabama Alcoholic
3 Beverage Control Board to receive the alcoholic beverages so
4 delivered.

5 "(c) Notwithstanding subsection (b), a delivery
6 service licensee in compliance with Section 2 of the act
7 adding this amendatory language or an employee or independent
8 contractor of the delivery service licensee may transport and
9 deliver beer and wine to an individual in the state who is at
10 least 21 years of age.

11 "(d) Any beer or wine delivered to an individual
12 pursuant to this section shall not exceed, by volume, the
13 equivalent of 48 12-ounce containers of beer and six
14 750-milliliter bottles of wine in any single 24-hour period.

15 ~~"(c) Any (e) A violation of subsection (a) of this~~
16 ~~section shall be a misdemeanor, punishable as provided in~~
17 ~~paragraph subdivision (b)(1) of subsection (b) of Section~~
18 ~~28-3A-25.~~

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

22 Section 2. (a) Any person, limited liability
23 company, retail premises licensed to sell beer or wine for
24 off-premises consumption, or partnership that is registered to
25 do business in this state, regardless of whether the ownership
26 of the business entity is based in the State of Alabama or
27 outside the State of Alabama, may apply for and be issued a

1 delivery service license that authorizes the licensee to
2 deliver beer and wine from a retail premises licensed to sell
3 beer or wine for off-premises consumption to an individual in
4 this state who is at least 21 years of age for personal use
5 and not for resale.

6 (b) In order to receive a license, an applicant
7 shall do all of the following:

8 (1) File an application with the Alcoholic Beverage
9 Control Board.

10 (2) Pay a non-refundable filing fee of one hundred
11 dollars (\$100), and a license fee of one thousand dollars
12 (\$1,000).

13 (3) Provide to the board a sample contract that the
14 applicant intends to enter into with a retailer for the
15 delivery of beer or wine, unless the applicant is the
16 retailer.

17 (4) Provide an attestation that the applicant is 21
18 years of age or older and has not been convicted of a felony
19 or a misdemeanor for a violation of Section 28-3A-25(a) (3),
20 Code of Alabama 1975.

21 (5) An applicant with four or more delivery drivers,
22 whether those delivery drivers are employees or independent
23 contractors, shall provide proof of a general liability
24 insurance policy in an amount no less than five million
25 dollars (\$5,000,000) per occurrence. An applicant with three
26 or fewer delivery drivers, whether those delivery drivers are
27 employees or independent contractors, shall provide proof of a

1 general liability insurance policy in an amount no less than
2 two million dollars (\$2,000,000) per occurrence.

3 (6) Provide an outline for an internal or external
4 training and certification program for delivery personnel that
5 addresses topics such as identifying underage individuals,
6 intoxicated individuals, and fake or altered identification.

7 (c) A delivery service licensee:

8 (1) May contract with any retailer licensed to sell
9 beer or wine for off-premises consumption for the purpose of
10 delivering beer or wine.

11 (2) May use its own employees or independent
12 contractors who are at least 21 years of age to deliver beer
13 and wine under this section, provided all delivery agents are
14 trained and certified consistent with the training program
15 submitted to the board as required by subdivision (6) of
16 subsection (b).

17 (3) May facilitate orders by telephone, Internet, or
18 by other electronic means for the sale and delivery of beer or
19 wine under this section.

20 (4) May deliver only sealed containers of beer or
21 wine.

22 (5) Shall obtain from the customer a confirmation
23 that he or she is at least 21 years of age at the time the
24 order is placed.

25 (6) For any delivery in a sealed package, there
26 shall be a stamp, print, or label on the outside of the sealed
27 package to indicate in readily apparent font or type that the

1 package contains alcohol and that the signature of an
2 individual at least 21 years of age is required for delivery.

3 (7) Shall require the recipient, at the time of
4 delivery, to provide valid photo identification that conforms
5 to Alcoholic Beverage Control Board rules and that verifies
6 that he or she is at least 21 years of age and sign for the
7 delivery.

8 (8) Shall possess identification scanning software
9 technology or a state-of-the-art alternative available at the
10 point of delivery that verifies the recipient is at least 21
11 years of age and retains the recipient's name, date of birth,
12 and signature.

13 (9) Upon request, shall provide each delivery
14 service agent either a printed copy of the delivery service
15 license or an electronic copy indicating the delivery service
16 licensee's name and number which shall be available for
17 inspection.

18 (10) Shall return all beer and wine to the retailer
19 if the recipient is under the age of 21 years, appears
20 intoxicated, fails to provide proof of identification, fails
21 or refuses to sign for delivery, fails to complete the
22 identification scanning software process or state-of-the-art
23 alternative, declines to accept the delivery of beer or wine,
24 or if any circumstances in the delivery environment indicate
25 illegal conduct, overconsumption, or an otherwise unsafe
26 environment for the consumption of alcohol.

1 (11) May deliver through a dry county but may not
2 deliver to an individual residing in a dry municipality.

3 (12) May not deliver any alcoholic beverage to any
4 residence hall within the boundaries of any institution of
5 higher learning, including any college, university, community
6 college, technical college, or junior college.

7 (13) Shall report, at the direction of the board,
8 the total amount of beer and wine directly delivered to
9 residents in the state during the preceding calendar year.

10 (14) Shall permit the board or the Department of
11 Revenue to perform an audit of the licensee's records upon
12 request.

13 (15) Shall be deemed to have consented to the
14 jurisdiction of the board or any law enforcement agency and
15 the Alabama courts concerning enforcement of this section and
16 any related laws or rules.

17 (d) A delivery service licensee may renew its
18 license with the board by paying annually a renewal fee of one
19 thousand dollars (\$1,000) and otherwise complying with the
20 renewal process set forth in Section 28-3A-5, Code of Alabama
21 1975.

22 (e) Nothing in this section shall be construed to
23 require a technology services company to obtain a delivery
24 service license if the company does not employ or contract
25 with delivery agents, but merely provides software or a
26 digital network application that connects consumers and

1 licensed retailers for the delivery of alcoholic beverages
2 from a licensed retailer.

3 (f) The board may enforce the requirements of this
4 section to suspend or revoke a delivery service license by the
5 same administrative proceedings that apply to alcoholic
6 beverage licenses, and the board may accept payment of a fine
7 in lieu of suspension or revocation. The payments shall be
8 determined by rule adopted by the board.

9 (g) The board may adopt rules pursuant to the
10 Alabama Administrative Procedure Act to implement this
11 section.

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